

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-185388

DATE: December 23, 1975

MATTER OF: Nash Equipment Company

DIGEST:

GAO is precluded from rendering decision on protest filed against procurement conducted on behalf of non-appropriated fund activity since bid protest jurisdiction is based on account settlement authority under 31 U.S.C. §§ 71 and 74 (1970) and General Accounting Office Act of 1974, which provides GAO with audit but not settlement authority over nonappropriated fund activities.

Nash Equipment Company has protested award of a contract based on a sole-source procurement for dock levelers at Yokota Air Force Base, Japan, awarded by the Army/Air Force Exchange Service.

We are informed that the procurement does not involve the expenditure of appropriated funds. With respect to our consideration of protests involving nonappropriated funds, we stated in ACS Construction Company, Inc., B-183034, April 18, 1975, 75-1 CPD 238, as follows:

"* * * We have previously held that this Office is without authority to render * * * decisions with respect to procurements conducted by or on behalf of nonappropriated fund activities. B-181469, July 9, 1974; B-179854, October 29, 1973; B-178786, July 16, 1973; B-171417, December 17, 1970. Although recently this Office was authorized to review and audit the operations and funds of certain nonappropriated fund activities, see section 301 of the General Accounting Office Act of 1974, Public Law 93-604, approved January 2, 1975, our bid protest jurisdiction is based on our authority to adjust and settle accounts and to certify balances in the accounts of accountable officers under 31 U.S.C. 71, 74 (1970). Wheelabrator Corp. v. Chafee, 455 F. 2d 1306, 1313 (D.C. Cir. 1971); 46 Comp. Gen. 441 (1966); B-167782, January 21, 1970. Where we do not have such settlement authority, we have declined to consider protests * * *!"

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Since we do not have settlement authority over nonappropriated fund activities, this Office is unable to render a decision on the protest. However, the correspondence from the protester will be retained for audit consideration pursuant to section 301 of Public Law 93-604.

for Milton Jordan
Paul G. Dembling
General Counsel