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DECISION



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

FILE: B-190219

DATE: November 25, 1977

MATTER OF: North American Business Machines Corporation

DIGEST:

Contracting officer's determination of nonresponsibility of small business concern and SBA's refusal to issue certificate of competency will not be reviewed.

North American Business Machines Corporation (North American) has protested the rejection of its bid under solicitation No. MDA903-78-B-0003, issued by the Defense Supply Service, Department of the Army.

North American was found to be nonresponsible by the contracting officer pursuant to Armed Services Procurement Regulation (ASPR) § 1-903.1(iv) (1976 ed.). Since North American is a small business concern, the matter was referred to the Small Business Administration (SBA) pursuant to ASPR § 1-705.4 (1976 ed.) for a determination as to whether a Certificate of Competency (COC) should be issued. Under 15 U.S.C. § 637(b)(7) (1970), SBA is empowered to certify conclusively to Government procurement officials with respect to the competency and credit of any small business concern to perform specific Government contracts. By telegram, dated September 30, 1977, the SBA declined to issue a COC stating that its decision was based on a comprehensive analysis of all available information.

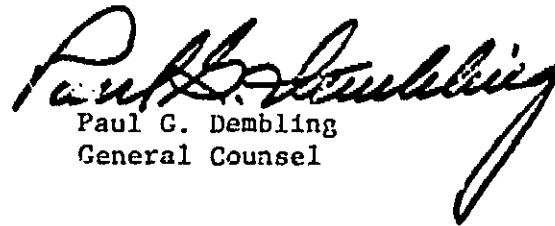
North American believes that the contracting officer's determination of nonresponsibility and SBA's refusal to issue a COC were based on erroneous facts.

Our Office does not review the propriety of SBA's COC determinations, and will not question a contracting officer's determination of nonresponsibility of a small business concern where it has been affirmed by SBA's denial of a COC. Professional Maintenance Service, B-189148, June 21, 1977, 77-1 CPD 442; Drexel Industries, Inc., B-186840, November 22, 1976, 76-2 CPD 439. Also, we have no

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authority to require SBA to issue a COC or to reopen a case when a COC has been denied. Zinger Construction Company, Inc., B-185390, December 16, 1975, 75-2 CPD 397.

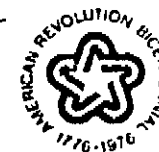
Consequently, our Office will not consider the merits of the protest.


Paul G. Dembling
General Counsel



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

Mr. Moorhead
PK I



OFFICE OF GENERAL COUNSEL

IN REPLY REFER TO: B-190319

November 25, 1977

The Honorable William S. Moorhead
House of Representatives

Dear Mr. Moorhead:

We refer to your interest in the protest of North American Business Machines Corporation under solicitation No. MDAC03-78-B-0003 issued by the Defense Supply Service, Department of the Army.

By decision of today, copy enclosed, we have declined to consider the merits of the protest.

Sincerely yours,

Paul G. Dembling
Paul G. Dembling
General Counsel

Enclosure



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

M. Nordell
PLI
AMERICAN REVOLUTION BICENTENNIAL
1776-1976

OFFICE OF GENERAL COUNSEL

IN REPLY REFER TO: B-190319

November 25, 1977

The Honorable Richard S. Schweiker
United States Senate

Dear Senator Schweiker:

We refer to your letter to our Office dated October 6, 1977, in regard to the protest of North American Business Machines Corporation under solicitation No. MDA903-78-3-0003 issued by the Defense Supply Service, Department of the Army.

By decision of today, copy enclosed, we have declined to consider the merits of the protest.

Sincerely yours,

Paul G. Dembling
Paul G. Dembling
General Counsel

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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

For Stoddard
PL I

OFFICE OF GENERAL COUNSEL

IN REPLY REFER TO. B-190319

November 25, 1977

The Honorable H. John Heinz III
United States Senator
2031 Federal Building
1000 Liberty Avenue
Pittsburgh, Pennsylvania 15222

Dear Senator Heinz:

We refer to your letters to our Office dated October 3 and 20, 1977, in regard to the protest of North American Business Machines Corporation under solicitation No. MDA903-78-B-0003 issued by the Defense Supply Service, Department of the Army.

By decision of today, copy enclosed, we have declined to consider the merits of the protest.

Sincerely yours,

Paul G. Dembling
General Counsel

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