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DECISION



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

FILE. B-188283

DATE: February 23, 1977

MATTER OF: E. L. Spencer Lumber Co., and John Ellis

DIGEST:

Protests that HUD timely advised one interested party but not others that rate of return in bid package was incorrect will not be considered since Secretary of HUD has broad authority pursuant to 12 U.S.C. § 1702 (1970) to make expenditures "without regard to any other provisions of law governing the expenditures of public funds."

E. L. Spencer Lumber Company and John Ellis have both protested to our Office in connection with Department of Housing and Urban Development (HUD) project No. 065-00051, a public offering of the Penthouse Garden Apartments, Pass Christian, Mississippi. The rental return rate in HUD's bid package was 7.6%. However, it is alleged that one interested party was notified seven days before the bid deadline that the correct figure was 9.8% while others received notification of the change too late to recompute their bids.

Pursuant to 12 U.S.C. § 1713(1) (1970), the Secretary of HUD may dispose of property notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States. Furthermore, 12 U.S.C. § 1702 (1970) authorizes the Secretary in pertinent part (1) to make such expenditures as are necessary to carry out the disposal of property and other functions without regard to any other provisions of law governing the expenditures of public funds and (2) to sue and be sued in any court of competent jurisdiction. While this authority formerly resided in the Commissioner of the Federal Housing Administration (FHA), it was transferred in 1965 to the Secretary of HUD by the Department of Housing and Urban Development Act, Public Law 89-174, § 5(a), 79 Stat. 669, 42 U.S.C. § 3534 (1970).

In light of the extraordinary authority granted the Secretary of HUD by 12 U.S.C. § 1702, our Office has no legal basis to question the Secretary's expenditure of funds and has no basis to

B-188293

approve or to take an exception to its accounts. Therefore,
the protest will not be considered.

Paul G. Dembling
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General Counsel