

DECISION



15267
Carter
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THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

[Protest of HUD Contract Award]

FILE: B-199738

DATE: October 24, 1980

MATTER OF: Brothers Specifications, Inc.

DIGEST:

GAO will not consider protest concerning actions of Department of Housing and Urban Development (HUD) in awarding contract for preparation of specifications for and evaluation of repairs to housing held by HUD in light of broad statutory authority of HUD to make such expenditures under National Housing Act.

Brothers Specifications, Inc. (Brothers), has filed a protest with our Office against the award of a contract by the Department of Housing and Urban Development (HUD) for the preparation of specifications for the repair of housing held by the Secretary of HUD under the National Housing Act, 12 U.S.C. §§ 1701, et seq. Because the National Housing Act authorizes the Secretary of HUD to make such expenditures as are necessary to carry out the functions under the act without regard to any other provisions of law governing the expenditure of public funds and also to sue and be sued under the act (12 U.S.C. § 1702), we have consistently held that our Office is not in a position to render a binding decision concerning these expenditures. See, e.g., Regal Realty, B-193713, February 13, 1979, 79-1 CPD 103; Republic Mortgage Corporation, B-188708, May 4, 1977, 77-1 CPD 307; and Michael J. Shott, B-181090, January 3, 1975, 75-1 CPD 4.

(Brothers contends that this contract does not fall under the National Housing Act and that we should therefore consider its protest.) We disagree.

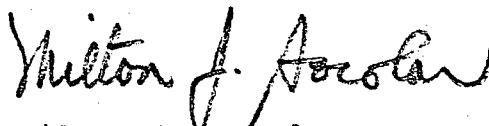
Brothers' position is based on language contained in HUD's regulations. The specific section on which Brothers relies, 24 C.F.R. § 20.6(a) (1980), states that a National Housing Act contract is:

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"* * * a contract entered into by the Department of Housing and Urban Development for goods and services for the management, repair, improvement, alterations, demolition, maintenance, operation, rental, or sale or other disposition of real and related property * * * which are entered into pursuant to the National Housing Act. * * *"

(Brothers argues that because this contract is "limited to specification writing, property inspection and the duplication and mailing of pertinent 'boiler plate' documents," and does not involve "management, repair, * * * or other disposition" of the properties, it does not fall within this definition.) We note, however, that (this regulation does not require that a contract call for the management, etc., of the properties in order to fall within the definition, but only that the contract be for goods or services for the performance of these functions.) The preparation of specifications and activities which are the subject matter of this contract are unquestionably "goods or services for" the performance of HUD's essential functions under the National Housing Act with respect to the affected properties. (The contract is, therefore, a National Housing Act contract.)

Consequently, we decline to consider the matter.)



Milton J. Socolar
General Counsel