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DECISION



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

FILE: B-200359

DATE: April 16, 1981

MATTER OF: Hometech

[Protest of DOE Grants Award]

DIGEST:

When grant applicant has neither alleged nor presented evidence (1) that agency awarded grants instead of contracts to circumvent competition requirements of procurement statutes and regulations or (2) that serious conflict of interest was involved, GAO will not review complaint regarding awards of grants.

[Hometech objects to the selection of several companies for the award of grants under the Department of Energy's (DOE) Small-Scale Appropriate Energy Technology Grants Program.] The program was established pursuant to the requirements of section 112 of the Energy Research and Development Administration Appropriation Authorization of 1977, Public Law 95-39, 91 Stat. 180, 42 U.S.C. § 5907a (Supp. I, 1977). DOE received 720 proposals.

Hometech questions why certain proposals were found acceptable by DOE and thus a better expenditure of public funds than Hometech's proposal. In particular, Hometech questions the following proposals:

(1) CA-80-462 "Energy Conserving Coin-Op Laundromat;"

(2) CA-80-232 "Gasification of Almond Shells to Produce Energy for Drying;" and,

(3) CA-80-419 "An Energy Conserving Appropriate Technology Wool Scouring Train."

[DOE responds that the award of grants is discretionary with the granting agency and our Office should not depart from its usual policy of not interfering

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with the grantor agencies in making and administering grants. In support of its position, DOE cites a number of our recent decisions, including Fishermen's Marketing Association of Washington, Inc., B-199247, August 21, 1980, 80-2 CPD 138.

[Because Hometech's complaint does not involve the award of a Government contract, and does not fall within one of the exceptions to our usual policy of declining to review grant awards, we are dismissing it.] See Johnson Products, Inc., B-198976, February 24, 1981, 81-1 CPD ____.

Pursuant to our Public Notice at 40 Fed. Reg. 42406 (1975), we will consider complaints from prospective contractors concerning the awards of contracts by grantees under Federal grants in order to foster compliance with grant terms and with statutory and agency regulations. However, as the Public Notice indicates, it is not our intention to interfere with the functions and responsibilities of grantor agencies in the actual awards of grants. Fisherman's Marketing Association of Washington, Inc., supra.

[We have considered the propriety of a grant award where it was alleged that the agency was using the grant award process to avoid the competition requirements of the Federal procurement laws or where it was alleged that a conflict of interest existed.] Burgos & Associates, Inc., 59 Comp. Gen. 273 (1980), 80-1 CPD 155. However, [Hometech has neither alleged nor presented any evidence that DOE chose to award grants, rather than contracts, in order to circumvent the competition requirements of the procurement statutes and regulations or that there is a serious conflict of interest involved.] Consequently, Hometech's complaint does not fall within any of the exceptions to our stated policy of declining to review grant awards.

The complaint is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel