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DECISION



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

FILE: B-206315

DATE: March 2, 1982

MATTER OF: Scotland Oil Company

DIGEST:

GAO will not consider protest against procurement conducted by Amtrak, a mixed-ownership Government corporation, where funding for procurement is derived from Amtrak operating revenues and Federal subsidy and there is no Federal agency involvement in either the funding or administration of the procurement.

Scotland Oil Company (Scotland) protests the award of a contract for delivery of 1,500,000 gallons of diesel fuel oil by the National Railroad Passenger Corporation (Amtrak) under request for quotation (RFQ) No. X-68-334-001. Scotland contends that Amtrak changed its interpretation of a material provision of the RFQ without notice to Scotland and thereby prejudiced Scotland's competitive position vis-a-vis the other bidders.

We have been advised by Amtrak that:

"The fueling of Amtrak locomotives in Greenville, South Carolina is completely unrelated to Amtrak's performance under the FRA-Amtrak Northeast Corridor Improvement Project contract, and there is no contract between any federal agency and Amtrak relating to fueling of Amtrak locomotives. Indeed, there is not involvement by any federal agency in the funding or administration of this activity."

We further understand that the funding for this procurement is derived from Amtrak operating revenues and its Federal subsidy. The subsidy is not, in our view, the same as a Federal grant. Even if the subsidy were characterized as a grant, our review

of grant complaints is based on the existence of Federal conditions which are imposed upon the manner in which the grantee is allowed to expend the grant funds. It is our understanding that there are "no strings" attached to the Amtrak subsidy. Consequently, we will neither consider this matter as a protest, Cubic Western Data, B-198530, May 15, 1980, 80-1 CPD 341, nor as a grant complaint.

The matter is dismissed.

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