

DECISION

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

FILE: B-210805**DATE:** June 24, 1983**MATTER OF:** Tammermatic Corporation**DIGEST:**

While GAO will review the award of a contract under a grant, GAO will not consider a complaint that the grantee failed to permit the prime contractor to substitute the complainant's product for one of the products specified in the contract, since the matter is one of contract administration.

Tammermatic Corporation has submitted a complaint concerning the award of a contract by the Tri-County Metropolitan Transportation District of Oregon (TRI-MET) to Contractors, Inc. for the construction of a new vehicle maintenance facility, including the installation of a vehicle wash system. The contract is funded in large part (80 percent) by a grant from the Urban Mass Transportation Administration. Tammermatic, a manufacturer of vehicle wash systems, complains that TRI-MET failed to permit Contractors to substitute Tammermatic's product for the vehicle wash system named in the contract. We dismiss the complaint.

TRI-MET issued the solicitation on January 21, 1982, specifying two manufacturers of vehicle wash systems as acceptable subcontractors. Certain provisions of the solicitation allowed that substitution requests for alternative wash systems could be made by the prime contractor, which were to be approved or disapproved by TRI-MET's architectural consultant in his discretion. Award was made to Contractors on February 19. That firm filed substitution requests for the Tammermatic wash system on August 4 and September 29. Both requests were rejected by TRI-MET's architect because the requests did not show, in accordance with the prescribed substitution procedures, that the Tammermatic system substitution was necessary to perform the contract or would be of substantial benefit to the contract in terms of cost, time or other considerations. Tammermatic complains that the disapprovals were improper, thereby excluding it from participation in the contract.

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Our review in grant situations is to insure that grantor agencies are requiring their grantees, in awarding contracts, to comply with applicable laws, regulations, or the terms of the grant agreements. See Copeland Systems, Inc., 55 Comp. Gen. 390 (1975), 75-2 CPD 237. Our review is limited to an examination of awards made by the grantee to the prime contractor (for example, TRI-MET's award to Contractors) or, in certain circumstances not present here, the contractor's award of a subcontract. See Hydro-Clear Corporation, B-189486, February 7, 1978, 78-1 CPD 103. A prime concern of our review is to insure that free and open competition is achieved. See International Business Machines Corp., B-194365, July 7, 1980, 80-2 CPD 12.

In the matter before us, there is no allegation that TRI-MET's award to Contractors was inconsistent with the fundamental principles of Federal procurement inherent in the concept of competition. See Wismer & Becker Contracting Engineers, B-202075, June 7, 1982, 82-1 CPD 538. Rather, the issue Tammertatic raises involves the administration of the contract awarded by the grantee. We do not consider such matters as part of our grant review process (or in connection with direct Federal procurements). City Council of Reading, Pennsylvania, B-192921, October 17, 1978, 78-2 CPD 283.

Since TRI-MET's disapproval of the substitution requests is an issue of contract administration, and does not directly concern a contract award, the complaint is dismissed.

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Acting General Counsel