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**DECISION**



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

FILE: B-205027.2

DATE: January 4, 1982

MATTER OF: Little Harbor Boatyard Corporation -  
Reconsideration

**DIGEST:**

Prior decision declining to consider objections raised by unsuccessful grant applicant is affirmed where complainant has not established that prior decision was based on erroneous interpretation of fact or law.

Little Harbor Boatyard Corporation requests that we reconsider our decision, Little Harbor Boatyard Corporation, B-205027, November 10, 1981, 81-2 CPD 397 in which we refused to consider Little Harbor's objections regarding the failure of the National Oceanic and Atmospheric Administration (NOAA) to award it a grant under the Saltonstall-Kennedy Act, 15 U.S.C. § 713c-3 (1976), as amended by the American Fisheries Promotion Act, Title II, Pub. L. 96-561, 94 Stat. 3287. We did so because we generally do not consider complaints concerning the award of grants or other Federal financial assistance. Although Little Harbor strenuously objects to our decision not to review its complaint, for the reasons given below, we find Little Harbor's objections to be without merit and we affirm our prior decision.

In its initial complaint to our Office, Little Harbor alleged that NOAA failed to follow the procedures for awarding grants that it published in the Federal Register on January 22, 1981. 46 Fed. Reg. 7152 (1981). Specifically, Little Harbor maintained that NOAA's procedures provided for applicants to submit proposals to be evaluated on either a national or regional basis. Little Harbor further contended that it submitted its proposal for national consideration but that NOAA improperly treated it as a regional proposal in violation of the procedures announced in the Federal Register. Accordingly, Little Harbor requested that we direct NOAA to stay the award procedure until its proposal could be evaluated as a national proposal.

We declined to consider Little Harbor's objections because we do not generally review complaints regarding the award of grants or other Federal assistance. In support of our decision, we cited Burgos Associates, 59 Comp. Gen. 273 (1980), 80-1 CPD 155 and Washington State Department of Transportation, B-193600, January 16, 1979, 79-1 CPD 25. Little Harbor, however, contends that the cited cases are not controlling of the case at hand. In particular, Little Harbor asserts that the cited cases stand for the proposition that we do not generally review the "propriety" of grant awards. Little Harbor argues that it is not questioning the "propriety" of a grant award, which according to Little Harbor deals with an agency's subjective evaluation of a grant proposal, but rather the failure of NOAA to follow prescribed Federal Register procedures.

The complainant states that while the evaluation of a proposal is something properly left for an agency, we should review complaints alleging that an agency failed to follow prescribed procedures because the procedures are finite and agency compliance is readily verifiable. In this regard, Little Harbor contends that we should consider its complaint as part of our "usual programmatic reviews." The complainant asserts that we have a mandate to "foster compliance with grant terms, agency regulations and applicable statutory requirements." Little Harbor argues that NOAA's procedures had the force and effect of law and our review would foster compliance with the law.

We believe our prior decision was correct. Although the General Accounting Office has the authority to "investigate \* \* \* all matters relating to the receipt, disbursement, and application of public funds," 31 U.S.C. § 53 (1976), we do not, as a matter of policy, routinely conduct investigations at the request of private parties. Due to the size of Government operations and our limited resources, we must necessarily exercise discretion in determining the matters in which we become involved. We have determined that we will review contract awards made by recipients of Federal grant funds or other financial assistance. Pursuant to our Public Notice

entitled "Review of Complaints Concerning Contracts Under Federal Grants," 40 Fed. Reg. 42406 (1975) we indicated that we would review complaints concerning procurements made by recipients of Federal grant funds. We also indicated, however, that we did not intend to interfere with the functions and responsibilities of grantor agencies in making grants. Thus, we have consistently declined to review complaints made by private concerns regarding the award of grants or other Federal financial assistance except where it is alleged that the agency is using a grant, instead of a contract, to avoid the statutory and regulatory requirements for competition, or where it appears that a conflict of interest exists. Renewable Energy, Inc., R-203149, June 5, 1981, 81-1 CPD 451; Burgos Associates, supra.

Regardless of how Little Harbor characterizes its complaint, we think it is clear that it does not fall within our Public Notice. Little Harbor is not questioning the award of a contract under a grant, but is questioning the grant award process. Our policy of not reviewing grant awards is not limited to circumstances where a complainant disagrees with the agency's evaluation of an applicant's proposal, but extends to all circumstances involving the grant award process except as noted above. The fact that Little Harbor may disagree with this policy is of no legal consequence.

Little Harbor has also raised several objections regarding the manner in which its complaint was handled. For example, the complainant takes exception to the fact that we did not notify NOAA of its complaint when it was filed. We did not notify NOAA of Little Harbor's complaint because we determined it was a matter which we would not review. Accordingly, no purpose would have been served by advising NOAA of Little Harbor's complaint. Little Harbor also objects to the fact that several of our employees refused to discuss certain aspects of Little Harbor's complaint; however, our employees do not discuss substantive issues related to cases pending before us. They did attempt, however, to assist Little Harbor in understanding our policy regarding grant complaints.

As Little Harbor has not established that our prior decision was based on an erroneous interpretation of either fact or law, our decision is affirmed. Federal Sales Service, Inc. - Reconsideration, B-198452, June 16, 1980, 80-1 CPD 418.

*Harry R. Van Cleave*  
For the Comptroller General  
of the United States