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DECISION



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

FILE: B-197724
MATTER OF:

DATE: May 19, 1981

URS/MSR Engineers, Inc.

DLG06685

DIGEST:

[Contract Award Protest]

GAO will not review award of contract by North Bergen County Sewer Authority to be funded under Environmental Protection Agency grant, since matter is before court of competent jurisdiction which has not indicated interest in GAO's view.

URS/MSR Engineers, Inc. (URS/MSR), has filed a complaint against the award of a contract for preparation of a wastewater facility plant to Boswell/Cosulich (B/C) by the Northwest Bergen County Sewer Authority (NBSCA), Waldwick, New Jersey, under grant No. C-34-700-01 administered by the Environmental Protection Agency (EPA). *DLG06684*
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URS/MSR argues that it should have been selected because its technical proposal was initially ranked first, and its price was lowest. The complainant also contends that negotiations were not conducted properly.

The Boroughs of Allendale, Ho-Ho-Kus and Midland Park, New Jersey, three of the municipalities served by the NBSCA, have filed suit in the Superior Court of New Jersey, Law Division, Bergen County, Civil Docket No. L 58794-78, to set aside the award to B/C in favor of award to the complainant. The issues before the court include both matters of State law and Federal law. The Federal law issues are substantially the same as those before our Office.

It is our policy not to review matters where the material issues are before a court of competent jurisdiction, unless the court expresses an interest in receiving our views. Commissioners of Cuyahoga

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County, Ohio, B-189626, August 12, 1977, 77-2 CPD 115. State courts generally have concurrent jurisdiction with Federal courts and, therefore, may entertain an action based entirely on a Federal claim. Charles Dowd Box Co.,- Inc. v. Courtney, 368 U.S. 502 (1962); Claflin v. Houseman, 93 U.S. 130 (1876). Therefore, the State court is a court of competent jurisdiction. Our Office has previously recognized this in The Volpe Construction Company, B-189280, July 6, 1977, 77-2 CPD 9, and Vito's Trucking and Excavating Co., B-190117, January 24, 1978, 78-1 CPD 62. Additionally, the court has not expressed an interest in our opinion.

Accordingly, the protest is dismissed.

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