

**DECISION**

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

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FILE: B-215309

DATE: June 27, 1984

MATTER OF: Norsaire Corporation

**DIGEST:**

When material issues involved in a complaint concerning a procurement by a federal grantee are also before a state court, and the court has not expressed an interest in GAO's opinion, GAO will dismiss the complaint.

Norsaire Corporation complains that an Urban Mass Transportation Administration (UMTA) grantee has improperly rescinded a contract awarded to it. Because Norsaire has filed a complaint on the same grounds in a Colorado District Court, and the court has not expressed an interest in our opinion, we dismiss the matter.

According to Norsaire, the board of directors of the Regional Transportation District, operator of a multi-city transportation network in the Denver area, voted to award it a contract for cooling systems to be installed on more than 100 buses. The agency's administrative staff, however, decided that because of ambiguities in the initial solicitation, a new solicitation should be issued. This was done on April 11, 1984.

Norsaire complained first to the grantee, which advised it that no contract had been awarded, and then to UMTA's Denver Regional Office, which refused to consider the matter because the same issues were involved in Norsaire's state court complaint, filed May 5, 1984. Norsaire appeals this refusal to our Office and requests that we review the merits of the case, applying federal statutes and regulations.

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For the same reason that UMTA refused to do so, we will not consider the allegedly improper rescission of the contract (and we do not here decide that a contract actually was awarded). It is our policy not to decide protests or grant complaints where the material issues are pending before a court of competent jurisdiction unless the court requests, expects, or otherwise expresses an interest in our decision. Dan Caputo Co. and Wagner Construction Co., a Joint Venture, B-209864, Jan. 27, 1983, 83-1 CPD ¶ 95; Alfred Calcaqni & Son, Inc., B-205029, Feb. 22, 1982, 82-1 CPD ¶ 154. Although Norsaire suggests that its complaint to UMTA and to us is not encompassed by the court action because federal law is the basis for the complaint while the court matter involves only local law, we agree with UMTA that the essential issue--the propriety of the grantee's action in light of requirements (both federal and local) for fair competition--is involved in both the law suit and the complaint filed here.

The complaint is dismissed.

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