

Morrison



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: William B. Jolley

File: B-233789

Date: March 14, 1989

DIGEST

1. Protest against the Department of Housing and Urban Development's procedure for prequalifying property appraisers and inspectors under the single family home direct endorsement mortgage insurance program is not for consideration under General Accounting Office's bid protest function because it does not involve a solicitation or the award or proposed award of a contract.

2. Where protester objects to the contracting agency's use of small purchase procedures to acquire credit analysis services but does not protest a particular procurement, and has not attempted to become certified to participate in the program, protester is not an interested party.

DECISION

William B. Jolley, protests the Department of Housing and Urban Development's (HUD) alleged use of small purchase procedures and noncompetitive awards to acquire appraisers, inspectors, and credit analysis services. Jolley has not protested a particular procurement; rather, it argues that the Federal Acquisition Regulations prohibit HUD's use of small purchase procedures to these services, and that HUD may be awarding improper personal services contracts.

We dismiss the protest.

Appraisers, inspectors, and credit examiners are utilized by HUD-approved private lending institutions (mortgagees) in order to obtain Federal Housing Administration (FHA) single family mortgage insurance under HUD's direct endorsement program. Under this program, HUD insures mortgagees against losses on mortgage financing. Where HUD provides mortgage insurance and a mortgagor defaults, HUD pays the mortgagee the amount of the insurance and HUD assumes the role of the

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mortgagee. See National Housing Act, 12 U.S.C. § 1701 et seq. (1982), and 24 C.F.R. § 200.163 (1988). In order to protect the government's financial interest, HUD assures that properties securing mortgages are properly appraised by requiring mortgagees to utilize HUD/FHA-qualified inspectors and appraisers, and HUD evaluates the credit of potential mortgagors with HUD/FHA-qualified credit examiners.

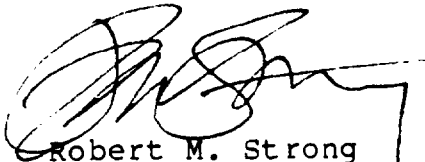
HUD advertises for individuals to apply to become qualified as appraisers, inspectors, and credit examiners and approves those applicants who meet specific training and experience requirements. These individuals are then placed on fee panels which essentially are lists of qualified individuals that mortgagees may use to appraise and inspect properties that will be security for the insurance, and whom HUD will utilize to perform credit reviews on prospective mortgagors. HUD reports that mortgagees perform credit examinations and obtain appraisers and inspectors from fee panels and directly arrange and pay for appraisals and inspections from fees paid the mortgagor, without the use of federal funds. HUD uses small purchase procedures to acquire credit analysis services as needed in the field offices on the less than 10 percent of single family loans that are not processed under the direct endorsement procedure. These fees range from \$8 to \$12 per case and HUD reports that the volume of such cases obtained never exceeds \$1,000 at any one time. HUD monitors the fairness of the direct endorsement program by using an automatic rotational assignment system to assign credit reviews and to assure that appraisals are assigned to qualified appraisers and inspectors on a fair and equitable basis. HUD also regulates the maximum fees that appraisers and inspectors can charge.

Under the Competition in Contracting Act of 1984 (CICA), 31 U.S.C. § 3551 (Supp. IV 1986), GAO's bid protest jurisdiction is limited to protests concerning the solicitation by an executive agency of bids or proposals for the procurement of property or services and a written objection by an interested party to the proposed award of a contract. HUD's prequalification of inspectors and appraisers to be used by mortgagees does not involve the solicitation or proposed award of a contract. Jolley's allegation that HUD is making improper awards to acquire appraisers and inspectors is simply inaccurate. Jolley's protest in this regard, and its general objections to HUD's practices may

not be considered under our bid protest function, since they do not constitute protests within the meaning of CICA. See International Foods Retort Co., B-230921, July 14, 1988, 88-2 CPD ¶ 51; see also Bid Protest Regulations, 4 C.F.R. § 21.1(a) (1988).

Jolley also challenges the propriety of HUD's utilizing small purchase procedures to procure credit analysis services, but does not protest a specific small purchase procurement or argue that HUD improperly rejected its application to become qualified to perform credit reviews. HUD reports that Jolley has never applied to become qualified as an appraiser, inspector, or credit examiner. Since Jolley has not attempted to compete for a credit analysis contract, there is no basis to conclude that Jolley is being adversely affected by HUD's use of small purchase procedures to obtain these services, and Jolley is not an interested party to protest this issue. 4 C.F.R. §§ 21.1(a) and 21.0(a).

The protest is dismissed.



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