



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Clark Construction Co., Inc.

File: B-260464

Date: March 17, 1995

DECISION

Clark Construction Co., Inc. protests the Department of Transportation, Federal Highway Administration's refused to approve the proposed award of a contract by the State of Alabama to Clark in connection with project No. MAAF-DEAF-214(37) pursuant to a federal grant.

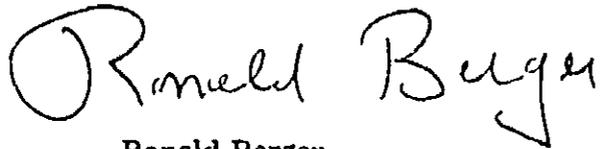
This is not a matter we can review. What is involved here is a procurement conducted by the State of Alabama. Alabama, of course, is not a federal agency. Our protest jurisdiction is limited to procurements of federal agencies. 31 U.S.C. § 3551 *et. seq.* (1988 and Supp. V 1993).

Several years ago we did review procurements conducted by federal grantees to ensure that there was grantee compliance with the federal grant requirements. We discontinued that practice in 1985 because we found that our review of grantee compliance with federal bidding requirements was no longer necessary. Consequently, we do not now consider protests of such procurements. See The George Sollet Constr. Co., 64 Comp. Gen. 243 (1985), 85-1 CPD ¶ 150.

The protester asserts that FHA essentially took over the procurement such that our review is appropriate. We have held that a procurement ostensibly conducted by a prime contractor can be considered a federal agency procurement for our jurisdictional purposes when the agency's involvement in the procurement was so pervasive that it "took over" the procurement. See St. Mary's Hosp. & Medical Ctr. of San Francisco, CA, 70 Comp. Gen. 579 (1991), 91-1 CPD ¶ 597. We have found such situations only in very limited circumstances where the agency controlled or conducted virtually all aspects of the procurement, including evaluating the competing offers and selecting the winner. See University of MI: Indus. Training Sys. Corp., 66 Comp. Gen. 538 (1987), 87-1 CPD ¶ 643; St. Mary's Hosp. & Medical Ctr. of San Francisco, CA, *supra*. In other situations, we have not found such pervasive involvement to exist. See ToxCo, Inc., 68 Comp. Gen. 635 (1989), 89-2 CPD ¶ 170; Perkin-Elmer Corp.-Metro Div., B-237076, Dec. 28, 1989, 89-2 CPD ¶ 604. Nothing like pervasive involvement is suggested here. Rather, it appears that the agency was essentially doing no more than exercising its approval rights

under its grant administration authority, similar to a contracting officer's exercise of his rights to approve or disapprove a proposed subcontract award, a matter we do not view as pervasive involvement. See Perkin-Elmer Corp.-Metro Div., supra.

Accordingly, the protest is dismissed.

A handwritten signature in cursive script that reads "Ronald Berger". The signature is written in black ink and is positioned above the printed name and title.

Ronald Berger
Associate General Counsel