

DECISION



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

*A. Hordeli
Protest
7804*

FILE: B-192464

DATE: September 21, 1978

**MATTER OF: Tracy Trombley Construction Company,
Inc. - Reconsideration**

DIGEST:

General Accounting Office does not consider "protests" concerning propriety of grant awards.

Tracy Trombley Construction Company, Inc. (Tracy), has requested reconsideration of our decision in Tracy Trombley Construction Company, Inc., B-192464, August 21, 1978, in which we declined to decide the propriety of an award made pursuant to a grant since it had been decided on the merits in a court of competent jurisdiction.

In its request for reconsideration, Tracy contends that our prior decision " * * * is based on an erroneous interpretation of the request made by Tracy * * *." Tracy denies that its request concerned a review of the contract award by the Town of Champlain. Rather, Tracy states that its request was as follows:

"What we asked the Comptroller General of the United States to review was the award of a grant to the Town of Champlain in direct violation of the Federal Regulations applicable."

However, in our view, the tenor of Tracy's July 24, 1978, letter to our Office was a request for the review of the contract awarded by the Town of Champlain to Noel J. Brunell and Son, Inc. Included in the letter upon which we base our conclusion was the following:

"The protest is based upon the decision of the grant recipient to award the contract for the project to Noel J. Brunell and Son, Inc.

* * * * *

"The basis of the protest is that the Noel J. Brunell and Son, Inc. bid omitted to list the

names of minority subcontractors to be used by it as required by in the bid form (see Exhibit A enclosed) and as required by the 'Local Public Works Capital Development and Investment Program (Round II) Standard Terms and Conditions, August, 1977' promulgated by the U. S. Department of Commerce, Economic Development Administration and made a part of the bid solicitation and incorporated in the contract.

* * * * *

"We submit that the failure of Brunell to comply with the Policy, the Standard terms and conditions and the Bid documents renders that bid unresponsive as a matter of law. The action of the grantee in awarding the contract to an unresponsive bidder is a violation of law and of the Policy and terms under which grants are made."

Moreover, to the extent that Tracy's letter might have been questioning the award of a grant to the Town of Champlain, we have stated:

"* * * '[i]t is not the intent of the General Accounting Office to interfere with the functions and responsibilities of grantor agencies in making and administering grants,' 40 Fed. Reg. 42406 [(1975)], * * * and for that reason this Office does not consider individual complaints concerning the propriety of a particular grant award." All Indian Pueblo Council, Inc., B-190092, September 22, 1977, 77-2 CPD 219.

See also National Technical Services, Inc., B-191096, February 16, 1978, 78-1 CPD 138.

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Accordingly, we will not consider this matter in either event.

P. J. Keller
Acting Comptroller General
of the United States