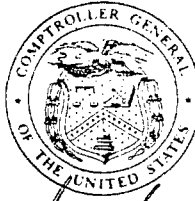


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**DECISION**



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

*[Request for Reconsideration of Grant-Related Procurement Complaint]*

FILE: B-196075.3

DATE: March 25, 1980

MATTER OF: Sanders Company Plumbing and Heating -- Reconsideration

*Complaint*  
*D LGO 35639*

**DIGEST:**

1. Request to reconsider decision dismissing complaint concerning procurement under grant because complainant did not avail itself of formal grantor agency protest procedures is denied since complainant presents no evidence demonstrating any error of law or information not previously considered in questioned decision.
2. Where decision dismissed complaint concerning contract award under grant without reaching merits, conference was not required because no useful purpose would have been served.

Sanders Company Plumbing and Heating (Sanders) requests reconsideration of our decision in the matter of Sanders Company Plumbing and Heating, B-196075, February 6, 1980, 59 Comp. Gen. \_\_\_ (1980), 80-1 CPD \_\_\_. In that decision we declined to consider a grant-related procurement complaint where the complainant failed to seek resolution of its complaint initially through the established Environmental Protection Agency (EPA) protest procedures, 40 C.F.R. § 35.939 (1979).

*AGC 20024*

As a basis for its request for reconsideration, Sanders asserts that our decision "is erroneous both in fact and in law and it is a denial of decades of decisions issued by your Office." Sanders further argues that "GAO is abrogating to each individual Government agency initial and exclusive jurisdiction

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to determine these matters and, at the same time, GAO is abrogating its duties and responsibilities as vested in such agency under the law."

Sanders has done no more than state its conclusions and has not offered evidence to demonstrate any error of law or information not previously considered in the original decision. Therefore, we find no basis upon which to reconsider this matter. See Eglen Hovercraft, Incorporated--Reconsideration, B-193050, March 14, 1979, 79-1 CPD 179.

We do feel constrained to comment on the nature of our review of complaints regarding the propriety of contract awards made by recipients of Federal assistance since it appears that Sanders, which requests reconsideration pursuant to Section 20.9 of our Bid Protest Procedures, 4 C.F.R. Part 20 (1979), does not understand the distinction between our bid protest role and our role in reviewing complaints of this nature.

We expressly stated in our Public Notice at 40 Fed. Reg. 42406 (September 12, 1975):

"Complaints [concerning contract awards under grants] are not for consideration under our bid protest procedures \* \* \* since there is no direct contractual relationship between the Federal Government and the party engaging in the contract."

We do, however, follow procedures in the consideration of complaints concerning grantee procurements which generally parallel our Bid Protest Procedures. In so doing, we undertake reviews of grant-related procurements for the limited purpose of fostering grantee compliance with grant terms, agency regulations, and applicable statutory requirements. Of course, it is the general responsibility of the grantor agency in administering its grants, to review its grantees' procurement decisions to assure that the requirements for competitive procurement have been met. Where a grantor agency sets

up a review mechanism, as EPA has done here, we believe we would be interfering with the agency's grant administration procedures, something we have consistently stated we would not do, see 40 Fed. Reg. 42406, if we permitted a complainant to circumvent them.

Thus, although we urge but do not require protesters of direct Federal procurements to seek initial resolution with the contracting agency, see 4 C.F.R. 20.2(a), we believe a complainant objecting to a non-Federal procurement action taken pursuant to a Federal grant should first avail itself of the complaint procedures a grantor agency establishes to meet its own responsibilities. Of course, where a grantor agency does not maintain such formal procedures, we shall continue to consider complaints filed initially with this Office.

As a final matter, Sanders also expresses its displeasure on our rendering the questioned decision without first holding a conference on the merits of the complaint. Since our decision dismissed Sanders' complaint without reaching the merits, there was no useful purpose to be served by holding a conference. See Die Mesh Corporation, 58 Comp. Gen. 111 (1978), 78-2 CPD 374; Neal R. Gross and Company, Inc., B-194408, August 14, 1979, 79-2 CPD 121.

The request for reconsideration is denied.



For the Comptroller General  
of the United States