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**DECISION**



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

FILE: B-196075

DATE: February 6, 1980

MATTER OF: Sanders Company Plumbing and Heating

2839

**DIGEST:**

[Request to reinstate GAO review of grant-related procurement complaint] is denied where complainant voluntarily did not first seek resolution of its complaint through established EPA protest process which is part of EPA grant administration function. Intent of GAO in conducting review of complaints under Federal grants is not to interfere with grantor agencies' grant administration function.

Sanders Company Plumbing and Heating (Sanders) complains that the City of Kansas City, Missouri (grantee) - CNG00079 improperly awarded a contract substantially funded by a grant from the Environmental Protection Agency (EPA) - Account 24 under Title II of the Clean Water Act, 33 U.S.C. §§ 1281 et seq. (1976).

Sanders filed its complaint with our Office without first having filed a protest with the grantee in accordance with the EPA protest procedures pursuant to 40 C.F.R. § 35.939 (1979). We initially dismissed the complaint without prejudice as we believed that a review of the complaint was in process by the grantee and EPA under EPA's procedures. However, Sanders subsequently informed us that its complaint was never the subject of a formal administrative review by EPA and requested that consideration of its complaint be reopened. Although a report was initially requested from EPA regarding the merits of Sanders' complaint, we have determined upon further review that we will not review this complaint.

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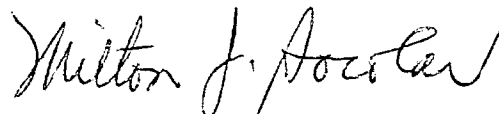
As reflected in the Public Notice published at 40 Fed. Reg. 42406 (September 12, 1975), our review of grant related contracting practices stems from our recognition of the amount of money involved in Federally funded programs. Complaints such as Sanders' are reviewed because we believe it is useful to "audit by exception," using specific complaints as vehicles through which to review contracting practices and procedures followed and compliance with requirements set out in grant instruments. In this regard, we believe it is important to examine the method by which the grantor reviews its grantees' procurement decisions in discharge of the grantor's responsibilities to assure that the requirements for competitive procurement have been met. Thomas Construction Company, Incorporated, 55 Comp. Gen. 139, 142 (1975), 75-2 CPD 101. Indirectly, of course, it is our hope that GAO review will foster grantee compliance with grant terms, agency regulations, and applicable statutory requirements.

In principle, we believe our objectives can be achieved most effectively if prospective contractors seek meaningful relief available at the grantee or grantor-agency level. The EPA protest process is an established procedure for identifying and resolving problems concerning grantee procurements. The agency attempts to use specific complaints as a vehicle through which to review contracting practices and procedures as part of EPA's primary responsibility in making and administering grants. As stated in our Public Notice, supra, it is not our intention in conducting our review to interfere with the functions and responsibilities of grantor agencies in administering grants. Since Sanders has chosen not to prosecute its complaint before the grantee under the EPA protest procedures we now decline to consider the complaint as such action would tend to undermine the effectiveness of EPA's grant administration function.

We note, however, that another unsuccessful bidder on the subject procurement who prosecuted its

complaint under the EPA protest procedures has requested our review. Consequently, although we decline to consider Sanders' complaint, we nevertheless will be undertaking a review of the grantee's procurement, thereby enabling us to meet our objectives as outlined above.

Sanders' request to reopen the complaint is denied.

A handwritten signature in cursive script that reads "Milton J. Socolar".

Milton J. Socolar  
General Counsel