

DECISION

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

FILE: B-206272.3

DATE: August 29, 1984

MATTER OF: Civic Action Institute

DIGEST:

GAO dismisses request to instruct agency to settle claims arising under three cooperative agreements because, with exceptions not applicable here, GAO does not consider complaints concerning either the award or administration of grants and cooperative agreements, and the existence and amount of claims are clearly matters of administration.

The Civic Action Institute requests our Office to instruct the Department of Housing and Urban Development (HUD) to settle claims arising under three cooperative agreements completed between 1979 and 1981. Because the existence and amount of the claims are matters to be settled by HUD during administration of the cooperative agreements, we will not consider the request.

The Institute argues that \$23,198 is due it for costs in excess of the totals authorized under cooperative agreements Nos. HA-6348 and HA-6515. It alleges that HUD is responsible for its having incurred these costs and is therefore obligated to pay them. The Institute concedes that they are offset by \$9,292 that HUD disallowed during final audit of a third cooperative agreement, No. HA-0010. Thus, the Institute claims a balance due of \$13,906 on the three cooperative agreements.

Also at issue here is interest earned by the Institute on cooperative agreement funds. Although the Institute disputes the amount, it states that it is willing to accept \$823, the amount HUD argues it must repay under the first two agreements listed above. This reduces the Institute's claims to \$13,083. However, it has offered to "zero sum" the matter--that is to settle with HUD on the basis that the amounts claimed equal the amounts owed to HUD.

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The Institute acknowledges that HUD has authority to settle the claims, but alleges that the agency has refused to deal with it in a reasonable manner in retaliation for the Institute's having successfully pursued another complaint with our Office. See Civic Action Institute, 61 Comp. Gen. 683 (1982), 82-2 CPD ¶ 270, aff'd on reconsideration, Nov. 2, 1982, 82-2 CPD ¶ 399.

We do not believe that it would be appropriate to direct HUD to settle the current claims. Under our public notice, "Review of Complaints Concerning Contracts under Federal Grants," 40 Fed. Reg. 42,406 (1975), we consider the propriety of awards by grantees when significant federal funds are involved; this is to ensure compliance with grant terms and with the statutes and regulations requiring competition. In this regard, for purposes of review, we consider grants and cooperative agreements alike. Renewable Energy, Inc., B-203149, June 5, 1981, 81-1 CPD ¶ 451.

In addition, as in the complaint successfully pursued by the Institute, we consider allegations that a contract, rather than a grant or cooperative agreement, should have been used or that a conflict of interest existed. See Innocept, Inc., B-208065, Sept. 13, 1983, 83-1 CPD ¶ 317. We do not otherwise consider complaints concerning either the award of grants or cooperative agreements, id., or their administration. Tammermatic Corp., B-210805, June 24, 1983, 83-2 CPD ¶ 15.

Here, the existence and amount of the claims clearly are matters of administration of the cooperative agreement, and we therefore will not consider the matter.

Harry R. Van Cleve
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Acting General Counsel

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