

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



B-164031(1)

090127

Mr. [unclear]
Mr. Heng
Mr. Martin
Mr. Quilley
Report Control [unclear]
Congressional [unclear]

File No. 6860
Case - 10417

1975

The Honorable J. J. Pickle
House of Representatives

REFUSED



LM090127

Dear Mr. Pickle:

As you requested on September 18, 1974, we have reviewed the allegations of Mr. Robert F. Drucker, a former employee of the National Institute of Education, Department of Health, Education, and Welfare. Mr. Drucker, in his undated statement titled "On Welfare of the Elite or Why Inflation Came to Call," raised issues concerning a construction grant to the Southwest Educational Development Laboratory centering upon the ownership arrangement and the reasonableness of certain associated acquisition costs.

We reviewed Institute grant files; discussed the transaction with Institute, General Services Administration, and laboratory officials; reviewed congressional hearings and legislation related to the educational research facilities program; and examined Office of Education and Institute construction grant policies and regulations.

We also reviewed Institute and Department investigative reports that addressed Mr. Drucker's allegations. Our examination did not include the circumstances resulting in Mr. Drucker's dismissal from the Institute. We contacted Mr. Drucker but he declined to elaborate on his allegations.

The Cooperative Research Act of 1954 (Public Law 83-531, as amended) authorizes an educational research facilities program to make grants to construct and equip educational research facilities. The Office of Education administered the education research facilities program from its inception in 1965 until August 1972, when the Institute assumed responsibility. During this period the Office reviewed all facility grant proposals and awarded seven grants. An Institute official said the Institute's role in the program was largely confined to reviewing construction progress reports, approving the payment of incurred costs, and handling grant close-outs.

The Southwest Educational Development Laboratory, incorporated in May 1966, is a nonprofit educational research and development corporation located in Austin, Texas. In

[Review of Allegations]

MWD-76-10

9/26/74

090127

January 1969 the laboratory told the Office of Education that it needed a long-term space commitment and was informally invited to submit an application for a facilities grant under either a long-term lease or a condominium purchase arrangement.

The laboratory applied to the Office of Education for a construction grant in May 1969. The proposal included three alternatives: long-term lease, leaseback, and condominium purchase. The proposal was reviewed by the Department of Health, Education, and Welfare's Office of General Counsel and Facilities Engineering Construction Agency; Office of Education staff; and outside experts. Three independent appraisers, members of the American Institute of Real Estate Appraisers, concluded that proposed facility acquisition costs were reasonable and an office building represented the best use of the land.

Based on these reviews and a cost analysis of alternative acquisition methods, the Office of Education approved the condominium approach, consisting of the following cost elements:

Laboratory's share of construction costs	\$2,898,208
Developer's 8-percent fee	231,856
Land rent	<u>310,000</u>
Total facility acquisition cost	<u>3,440,064</u>
Office equipment	209,936
Program equipment	410,000
Office landscape study	<u>40,000</u>
Total grant cost	<u>\$4,100,000</u>

The laboratory could not develop and construct a facility using Federal funds, because land acquisition is prohibited by the authorizing legislation. Departmental lawyers concluded the condominium ownership arrangement was legally permissible under section 4 of the Cooperative Research Act, as amended, provided laboratory ownership extended through the useful life of the facility. The Office of Education specified that the facility's useful life should be at least 25 years. Ultimately, the condominium deed provided for 28 years of laboratory ownership of the facility with the right to extend its condominium interest or lease the facility in 4-year increments up to 12 years.

B-164031(1)

Lawyers for the Department of Health, Education, and Welfare concluded that the acquisition of the laboratory facility under a condominium ownership arrangement, including a developer's fee and prepaid land rent, was permissible under section 4 of the Cooperative Research Act. We believe that the Office of Education's review of the facility grant transaction, the independent appraisers' findings and conclusions, and other analyses indicate that the amounts paid for the laboratory facility, developer's fee, and prepaid land rent were reasonable.

We have not obtained formal comments on this report from the agencies or grantee. We did discuss our observations with Institute officials and considered their comments in preparing the report.

Sincerely yours,


ACTING Comptroller General
of the United States