

DECISION



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

60703

FILE: B-184866

DATE: April 1, 1976

MATTER OF: Monarch Wrecking, Inc., and
Detroit Demolition Contractors Association

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DIGEST:

Protest involving demolition contracts effected under 12 U.S.C., Chapter 13, Subchapter II, is not for settlement by GAO and is dismissed since Secretary of HUD is authorized under 12 U.S.C. 1702 to make such expenditures as are necessary to carry out provisions thereof without regard to any other provisions of law governing the expenditures of public funds and is authorized to sue and be sued.

Monarch Wrecking, Incorporated and the Detroit Demolition Contractors Association (representing numerous Detroit area contractors) have protested alleged improprieties in the procedures by which a demolition contract under solicitation No. 002-76-44 was awarded by the Department of Housing and Urban Development (HUD).

This Office considers bid protests pursuant to the authority in 31 U.S.C. 71, 74 (1970) to adjust and settle accounts and to certify balances in the accounts of accountable officers. However, upon consideration of the extent of the jurisdiction which Congress has placed in the Federal Housing Administration we have concluded that this Office is without authority to decide the protest presented.

In a report dated March 15 HUD has advised us that the dwellings to be demolished under the subject contract were held under mortgages which had been insured by the Secretary of HUD pursuant to various sections in 12 U.S.C., Chapter 13, Subchapter II. Upon default by the mortgagors, the Secretary paid insurance benefits to the mortgagees and acquired the various properties. Under said Subchapter II, the Secretary is authorized to dispose of such properties as well as repair and renovate them. (See 12 U.S.C. 1710(g)). When economically unfeasible to repair or renovate, the buildings are razed and the vacant properties are then sold.

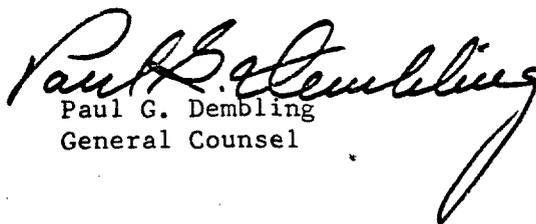
Under 12 U.S.C. 1702 (1970) the Secretary of HUD is authorized to (1) make such expenditures as are necessary to carry out the

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disposal of property and other functions without regard to any other provisions of law governing the expenditures of public funds and (2) to sue and be sued in any court of competent jurisdiction. While this authority formerly resided in the Commissioner of the Federal Housing Administration, it was transferred in 1965 to the Secretary of HUD under the Department of Housing and Urban Development Act, Public Law 89-174, § 5(a), 79 Stat 669, 42 U.S.C. § 3534 (1970).

When Congress creates such an agency as the FHA, authorizes it to engage in commercial and business transactions with the public and permits it to "sue and be sued" it cannot be presumed that restrictions on its authority are to be implied. Federal Housing Administration v. Burr, 309 U. S. 242 (1940) and Mr. Eugene Lefkowitz, B-182885, January 24, 1975, 75-1 CPD 48.

For the above reasons, we must conclude that this Office is without authority to settle this matter and the protest is dismissed. See Section 20.1(a), Bid Protest Procedures, 40 Fed. Reg. 17979 (1975).


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General Counsel