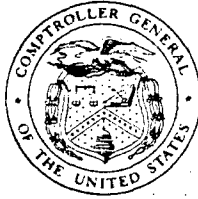


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DECISION



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

FILE: B-203306.3

DATE: September 21, 1981

MATTER OF: Travenca Development Corporation

DIGEST:

Reconsideration request filed with GAO is dismissed because material issues of matter are before court of competent jurisdiction.

Travenca Development Corporation (Travenca) requests that we reconsider our decision in the matter of Messrs. Albert Abramson and Theodore N. Lerner, trading as White Flint Place; Travenca Development Corporation, 60 Comp. Gen. ___ (B-203306, B-203306.2, July 31, 1981), 81-2 CPD 77.

Our decision was rendered at the request of the Washington Metropolitan Area Transit Authority (WMATA) as to whether WMATA's selection of Paramount Development Corporation (Paramount)--as the successful offeror under a joint development prospectus for the White Flint Metro Station--was reasonable and consistent with competitive principles. Our decision concluded, in the part germane to Travenca's reconsideration request, that Travenca's proposal deviated from the mandatory, material, additional-rent requirement of the prospectus. Specifically, the decision noted that the prospectus required additional rent to be expressed as a fixed percentage of all gross income from the project, but Travenca proposed a fixed percentage of all gross income "subordinate to debt service."

The record in our decision contained Travenca's proposal, WMATA's interpretation of the impact of the Travenca qualification, and Travenca's argument that the qualification was not material. On reconsideration, Travenca restates its prior position, which we fully considered in the decision.

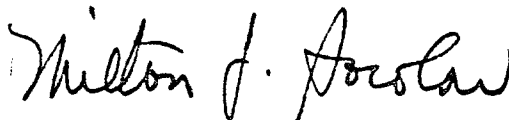
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On August 31, 1981, we were informed that, on August 28, 1981, Paramount filed Civil Action No. 81-2037 in the United States District Court for the District of Columbia. Paramount's suit presents the same material issues that were decided in the earlier decision and that are raised by Travenca here.

It is our policy not to consider matters where the material issues are pending before a court of competent jurisdiction. See, e.g., Northwest Polymeric, Inc., B-200348, November 10, 1980, 80-2 CPD 353. Therefore, even though Travenca is not a party to Paramount's suit, we do not think that it would be appropriate for us to rule on the merits of the issues pending before the court.

Accordingly, Travenca's reconsideration request is dismissed.



Acting Comptroller General
of the United States