

McGrail, P.L.

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DECISION



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

[Complaint Against DOE Rejection of Application for Loan Guarantee]

FILE: B-201257

DATE: December 31, 1980

MATTER OF: Agrifuels Refining Corporation

DIGEST:

GAO will not review Federal agency's denial of application for loan guarantee.

Agrifuels Refining Corporation (ARC) has filed a complaint against the Department of Energy's (DOE) rejection of its application for a Federal loan guarantee under the Biomass Energy and Alcohol Fuels Act of 1980 which is at Title II of the Energy Security Act, Pub. L. No. 96-294, 94 Stat. 611 (1980). The statute authorizes DOE to provide loan guarantees for the construction of alcohol fuels, biomass energy, and municipal waste projects. ARC applied for the guarantee in response to DOE's implementation of the statute in a rule published at 45 Fed. Reg. 67021 et seq., October 8, 1980. The rule stated that loan guarantees were to be awarded applicants on a competitive basis. Applications were to be comparatively judged by several criteria including the project's technical feasibility and its environmental impact and the financial stability of the applicants. ARC complains that DOE's evaluation of its application was not in accordance with the procedure and criteria prescribed.

We will not review DOE's decision not to award ARC a loan guarantee. ARC's complaint is analogous to one concerning the awarding of a Federal grant by a Federal agency. We have declined to consider such protests because:

"* * * it is not our intention to interfere with the functions and responsibilities of grantor agencies in the actual awards of grants. Therefore, we do not generally consider our Office as an appropriate forum in which complaints concerning the denial of grant applications or the actual awards of

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grants or other assistance-type instruments should be aired * * *." Fishermen's Marketing Association of Washington, Inc., B-199247, August 21, 1980, 80-2 CPD 138.

In our view, the award or denial of a loan guarantee under the Biomass Energy and Alcohol Fuels Act of 1980, supra, similarly is a function of the agency charged with the implementation of the statute, DOE, and not appropriate for review by our Office. The complaint is dismissed.



Milton J. Socolar
General Counsel