



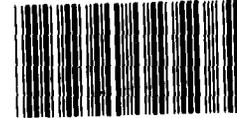
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B-203816

August 4, 1981

RELEASED

The Honorable Allen E. Ertel  
House of Representatives



116213

Dear Mr. Ertel:

Subject: [Concerns Over Award of Low-Income Weatherization Assistance Program Funds to an Ineligible Local Agency] (EMD-81-114)

Your letter of May 1, 1981, expressed concerns about the award of Department of Energy (DOE) low-income weatherization assistance program funds by the State of Pennsylvania to the North Philadelphia Block Development Corporation (the Corporation). In that letter, you requested that we undertake a thorough review of the award to the Corporation. In discussions with you, we agreed that we would not at this time investigate the Corporation, because it is currently under criminal investigation by the Federal Bureau of Investigation, but would provide information on the following three questions:

- What administrative techniques are available to DOE to prevent the award of weatherization funds to an ineligible local agency?
- In instances where a State ignores legal requirements by awarding weatherization funds to an ineligible local agency, what actions can DOE take?
- What is the status of DOE actions to recover the funds awarded by the State of Pennsylvania to the Corporation?

In answering these questions, we reviewed a DOE Inspector General report on the award to the Corporation, 1/ and applicable legislation, regulations and procedures. We also interviewed DOE officials responsible for the weatherization program. As discussed with your office, because you desired our report as soon as possible, we did not obtain official agency comments on the matters discussed in this report.

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1/Report of the Office of Inspector General on "Unauthorized Weatherization Funding for the North Philadelphia Block Development Corporation," Report No. IG-141, Dec. 16, 1980.

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BACKGROUND

On December 5, 1979, the State of Pennsylvania entered into a contract that awarded DOE weatherization program funds to the Corporation. The Corporation was a newly formed entity operating in an area already served by a community action agency (CAA).

The selection of local agencies to carry out the weatherization assistance program must be done in accordance with certain legal and regulatory procedures. However, in the award to the Corporation, these procedures were not followed by the State. Accordingly, DOE's Inspector General found the contract represented an unauthorized obligation of funds.

In order to be eligible for weatherization program funds, Title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.) and DOE regulations issued pursuant to the Act (10 CFR 440 et seq.) require each State to (1) prepare annually a State plan which, among other things, describes the proposed funding distribution and the recipients; (2) hold a public hearing on the proposed State plan; and (3) submit the final State plan to DOE for approval. Funds received under the Act must be administered by a CAA carrying out programs under Title II of the Economic Opportunity Act of 1964, unless certain procedures are followed.

As stated in the DOE Inspector General's report on the award to the Corporation, since the area was already being served by a CAA, funding of the Corporation required prior approval of the Pennsylvania State Policy Advisory Council Committee and the DOE regional representative. Also, the State was required to hold a public hearing to justify the use of an agency other than the CAA. DOE weatherization funds were awarded to the Corporation without following the above procedures and after DOE notified the State that it disapproved the proposed award.

PREVENTION OF AWARD TO AN  
INELIGIBLE LOCAL AGENCY

DOE has no practical way to ensure that a State will not award funds to an ineligible local agency. It relies on the States to adhere to the legal and regulatory requirements of the weatherization program. The Department primarily relies on periodic independent audits of State financial records for disclosure of non-compliance with these requirements, such as the award of funds to an ineligible local agency.

According to DOE, the award to the Corporation was the only instance in its weatherization program of an award to a local agency after DOE disapproval.

DOE uses a letter of credit to distribute grant funds to the States. The letter authorizes States to draw Federal funds when necessary. The States, in turn, are responsible for redistributing the funds to the approved local agencies.

The principal means by which DOE would become aware of a State's distribution of grant funds to an ineligible local agency is the required periodic audit of State grant financial records. Office of Management and Budget (OMB) Circular A-102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments," requires an audit of State grant financial records at least every 2 years by qualified individuals independent of those authorizing the grant expenditures. Usually, these audits are performed by State auditors or independent Certified Public Accountants.

The funding of an ineligible local agency could be precluded by requiring that all disbursements to local agencies be made through DOE. There are about 1,000 local agencies to which the States disburse weatherization funds at numerous times during the year. Such a requirement could be very cumbersome, time-consuming, and costly.

#### REMEDIES AVAILABLE TO DOE

In instances where a State does not adhere to legal and regulatory requirements in awarding weatherization funds to a local agency, DOE can withhold a like amount from future grant funding and institute action to rule that the State is ineligible for program participation.

On the basis of an audit of State financial records, DOE can take exception to the amount of the ineligible award and withhold a like amount from future grant disbursements to the State until it has repaid the amount of the exception.

Section 418 of the Energy Conservation and Production Act provides that, if after reasonable notice and a public hearing, the Secretary of Energy finds that the State has failed to comply substantially with the law or regulations, he may notify such State that it will not be eligible to participate in the program until he is satisfied that noncompliance no longer exists.

During one of our discussions, you asked that we consider the need for DOE legal action against the State officials involved in the award to the Corporation. Federal funds were

initially involved, and DOE has taken action to require the State to repay these funds. Because the award to the Corporation was from funds granted to the State, and the repayment will involve State funds only, we believe that any legal action against State officials is more properly a function of the State.

STATUS OF DOE ACTION TO RECOVER FUNDS

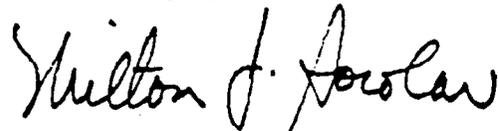
Pennsylvania's unauthorized contract with the Corporation amounted to \$107,437, although only \$35,813 was made available as an operating advance. The DOE Inspector General's audit of the grant took exception to \$55,835.46 as improperly expended as follows:

Cash operating advance	\$35,813.00
Weatherization materials previously purchased with DOE funds and transferred to the Corporation	3,368.19
DOE funded salaries and expenses of State employees for time spent relating to the Corporation	<u>\$16,654.27</u>
	<u>\$55,835.46</u>

DOE is withholding \$75,000 in fiscal year 1980 administrative funds for the weatherization program from Pennsylvania, pending settlement of the audit exception. On April 13, 1981, DOE requested a refund of \$55,835.46 from the State and notified it of its right to appeal DOE's decision to DOE's Financial Assistance Appeals Board within 60 days. On June 5, 1981, the State filed an appeal to the decision. After the State submits documents to support its appeal, a hearing date will be set.

We trust that this information is useful to your needs. As discussed with your office, we will distribute copies of this report to interested parties upon request.

Sincerely yours,



Acting Comptroller General  
of the United States