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B-182423 November 25, 1974

Number: B-182423

Date: 1974-11-25

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The Honorable Marlow W. Cook United States Senate

Dear Senator Cook:

Your letter of October 15, 1974, transmitted background information concerning the indebtedness of the Gateway Area Development District (Gateway) in Owingsville, Kentucky, to the Agency for International Development (AID). The indebtedness arose from the failure of Gateway to pay to AID the amounts required under contracts which detailed two AID personnel to Gateway. You indicate Gateway's fear that with the referral of the matter to our Office, Gateway will not be able to receive any Federal funds from other agencies to which it has applied, meaning that a significant portion of their plans and programs will be disrupted until the Government's claim is satisfied. Hence, you request the status of the claim and an indication of the actions that may be taken against Gateway at this time.

The indebtedness in question, amounting to $60,620, was referred to our office by AID's letter of September 11, 1974, for further collection proceedings, and is now under consideration by our Transportation and Claims Division under Claim No. Z-2564283. There is no question as to the validity of the Government's claim, since it arose from Gateway's failure to pay to AID amounts clearly required by the terms of the contracts and billed to Gateway by AID. In this connection, it is noted that Gateway has acknowledged its indebtedness by its letter of June 11, 1974, to AID, and also in its letter to you dated July 9, 1974. Hence, we have no alternative but to institute collection proceedings against Gateway under the provisions of the Federal Claims Collection Act of 1966, approved July 19, 1966, Pub. L. No. 89-508, 80 Stat. 308, 31 U.S.C. Sec. 951-953, and the Joint Standards promulgated thereunder by the Attorney General and the Comptroller General, 4 C.F.R. Sec. 101-105 (1974). A copoy of the Joint Standards is enclosed for your information.

In accordance with the procedures established under the Joint Standards, a number of demand letters will be issued to Gateway. While the Standards provide for the compromise of or termination of collection action on indebtednesses under stipulated circumstances, such provisions apply only to debts which do not exceed $20,000 exclusive of interest. Hence, in view of the amount of Gateway's debt, we have no authority to effect a compromise thereof or to terminate collection action thereon. However, we do not wish to inflict undue hardship upon any debtor. Under the Standards, we do have authority to collect debts through installment payments, if Gateway is unable to pay in a lump sum.

Your letter indicates Gateway's concern that in view of the referral of this debt to GAO, it may not be able to receive Federal funds from other agencies to which it has applied. This appears to refer to the possible offset of amounts otherwise payable from the Government to Gateway, provision for which appears in section 102.3 of the Joint Standards. Customarily we effect collection by offset of amounts due from the United States to one of its debtors and would do so in this case if there were any amount known to be due or about to become due to Gateway. However, it is unlikely that there should be due or soon to become due to Gateway from the United States or any agency thereof other than from a grant program an amount sufficient to liquidate the indebtedness here involved. The question as to whether an amount due to a debtor of the United States under a grant program may be offset against the debt depends upon the nature and purpose of the grant program. If any amount payable under a categorical grant program were to be offset, the objectives of the grant would not be accomplished and there would be no purposes in making the grant. However, other types of grants may be subject to offset. Individual consideration must be given to each instance.

In the event that we are unable to collect this indebtedness from Gateway, we have no alternative under the Joint Standards but to refer the matter to the Department of Justice for appropriate action.

We hope that the above serves the purpose of your inquiry.

Sincerely yours,

Paul G. Dembling General Counsel

Enclosure