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DECISION



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

FILE: B-197714

DATE: February 19, 1980

MATTER OF: Gerald L. Fehlman

DIGEST:

[Protest of Forest Service Purchase of Equipment]

Protest alleging purchase of equipment to be operated by agency is contrary to contracting out requirements of OMB Circular A-76 is not for consideration under Bid Protest Procedures since provisions of Circular involve Executive policy rather than legal rights and responsibilities and therefore compliance therewith is not within protest decision function of GAO.

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Gerald L. Fehlman protests the purchase by the Forest Service, U.S. Department of Agriculture, of tractors for use in road maintenance and related activities. The protester asserts that the purchase is contrary to Office of Management and Budget (OMB) Circular No. A-76 because the Forest Service, rather than performing the maintenance work itself, should be contracting out for those services.

This is not a matter for review under our Bid Protest Procedures, 4 C.F.R. Part 20 (1979), pursuant to which we consider an agency's compliance with applicable statutes and regulations which impose certain legal obligations and responsibilities. The provisions of Circular A-76, which in general encourage agencies to contract out, only set forth Executive policy; they do not establish legal rights and responsibilities, and consequently we do not view compliance therewith as within the protest decision function of our Office. Local F76, International Association of Firefighters, B-194084, March 28, 1979, 79-1 CPD 209; 53 Comp. Gen. 86 (1973).

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The protest is dismissed.

Harry R. Van Cleave
for Milton J. Socolar
General Counsel