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**DECISION**



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

FILE: B-200271

DATE: February 24, 1981

MATTER OF: World Landscaping

**DIGEST:**

Where [protest <sup>of</sup> to Air Force against cost comparison analysis] which showed it would be less costly to perform service in-house than to contract out for services is denied by contracting officer, protest of analysis filed in GAO more than 10 working days after such denial is untimely.

World Landscaping (World) protests the determination by the Department of the Air Force (Air Force) to perform grounds maintenance services at Sheppard Air Force Base in-house rather than contracting out under solicitation No. F41612-80-B-0029. This determination was made as the result of a cost comparison which was conducted under the guidance of Office of Management and Budget Circular No. A-76.

The solicitation was issued by the Air Force in order to determine the cost of contracting out based on the bids of potential contractors for the services in question. This cost was then compared with the estimated cost of using Government employees for the same services. At bid opening on July 10, 1980, World was found to be the low responsive bidder. However, at that time, World was also given a completed cost comparison form and basic backup data and was advised:

"Preliminary calculations indicate that an in-house operation provides for the most cost effective means of performing the requirements described in the solicitation. Final determination will not be made until mathematical calculations have been validated. All bidders will be notified of the final determination in writing."

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Generally, we regard a dispute over an agency decision to perform work in-house rather than to contract out for those services as involving a policy matter to be resolved within the executive branch. Crown Laundry and Dry Cleaners, Inc., B-194505, July 18, 1979, 79-2 CPD 38. When, however, an agency uses the procurement system to aid in its decision-making, we believe it would be detrimental to the system if, after the agency induces the submission of bids, it employs a faulty or misleading cost comparison which materially affects the decision as to whether a contract will be awarded. Kahoe Enterprises Incorporated, B-183866, June 17, 1976, 76-1 CPD 389. However, an allegation that a faulty cost analysis was made will not be considered unless the protest is timely. S & G Services, Inc., B-197076, April 17, 1980, 80-1 CPD 271.

The Air Force asserts that the protest is untimely under our Bid Protest Procedures, 4 C.F.R. part 20 (1980). We agree.

By letter dated July 15, 1980, World protested the determination to perform in-house to the Air Force alleging a number of errors in the cost comparison figures and requesting substantiation for certain calculations. The Air Force contracting officer responded by letter dated July 25, 1980, in which he provided explicit responses to the questions raised by the protester and advised:

"All mathematical calculations have been validated and a final determination has been made that an in-house operation provides for the most cost effective means of performing the requirement \* \* \*."

World sought certain additional clarification from the Air Force and did not file its protest with our Office until September 8, 1980, more than a month after it received the Air Force's letter denying its protest. Where a protest is filed initially with the contracting agency, our Office will consider a subsequent protest only if it is filed here within 10 working days of notification of initial adverse agency action. 4 C.F.R. § 20.2(a) (1980); National Flooring Company, B-188019, February 29, 1977, 77-1 CPD 138. Although the protester requested additional information from the Air Force after it received the letter of July 25, that letter clearly constituted initial notification of adverse agency action, since it set forth the analysis and, in fact, the final determination to which World objected. Thus, receipt of

this letter initiated the running of our 10-day filing period requirement. Career Consultants, Inc., B-198598, September 16, 1980.

Accordingly, the protest is dismissed as untimely.

*Harry R. Van Cleave*

For Milton J. Socolar  
General Counsel