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DECISION



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

FILE: B-210480

DATE: February 18, 1983

MATTER OF: Bompart Cleaning Service

DIGEST:

Where appropriations act contains prohibition against GSA obligating or expending funds to contract for custodial services, protest against cancellation of solicitation for these services is dismissed as academic since award could not be made under the solicitation because of the prohibition.

Bompart Cleaning Service (Bompart) protests the cancellation of invitation for bids (IFB) No. 82-09-035, issued by the General Services Administration (GSA) for custodial cleaning services at the Federal Building/United States Courthouse, Helena, Montana.

We dismiss the protest.

Public Law 97-377, enacted on December 21, 1982, contained a prohibition against GSA obligating or expending funds to contract for services which prior to the enactment of the act had been performed by GSA employees in positions described in section 3310 of Title 5, United States Code, which refers to guards, elevator operators, and custodians. The services solicited by IFB No. 82-09-035 had, prior to the enactment of Public Law No. 97-377, been performed by GSA employees and it was for this reason that GSA canceled the solicitation.

Bompart contends that GSA's decision to cancel the solicitation is contrary to the policy of the General Accounting Office (GAO) to recommend the contracting out for such services and circumvents Office of Management and Budget (OMB) Circular A-76.

The prohibition against GSA contracting for custodial services renders the protest academic because GSA could not reinstate the solicitation and award a contract under the solicitation. See International Business Investments, B-209051, January 10, 1983, 83-1 CPD ____, and Inter-Con Security Systems, Inc., B-208551, January 26, 1983, 83-1 CPD ____.

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The protest is accordingly dismissed.

Harry R. Van Cleve
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Acting General Counsel