

**DECISION**

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

J5686

**FILE:** B-211903**DATE:** July 11, 1983**MATTER OF:** National Association of Government  
Employees, Local R14-89**DIGEST:**

Determination under Office of Management and Budget Circular No. A-76 to contract for services in lieu of performance by Government employees is a matter of executive policy not reviewable in bid protest filed by union representing Federal employees.

The National Association of Government Employees, Local R14-89, protests the Army's decision to contract out for audio-visual services at Fort Bliss, Texas, under invitation for bids (IFB) No. DABT51-82-B-0063.

The protest involves a decision made in accordance with Office of Management and Budget (OMB) Circular No. A-76. Our Office has repeatedly declined to render decisions concerning the propriety of an agency's determination under A-76 to contract out instead of performing work in-house. These determinations are regarded as beyond the scope of our bid protest decision function because the provisions are matters of executive branch policy which do not create legal rights or responsibilities. See Local F76, International Association of Firefighters, B-194084, March 28, 1979, 79-1 CPD 209.

In Crown Laundry and Dry Cleaners, Inc., B-194505, July 18, 1979, 79-2 CPD 38, we indicated that we would consider it detrimental to the competitive system for the Government to decide to award or not award a contract based on a cost comparison analysis that did not conform to the terms of the solicitation under which bids were submitted. For that reason we do entertain protests which allege a faulty or misleading cost comparison of the in-house estimate with the bids received. See Serv-Air, Inc.; AVCO, 60 Comp. Gen. 44 (1980), 80-2 CPD 317. In those cases, however, our review

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is intended to protect parties that competed from the arbitrary rejection of their bids and does not extend to nonbidders such as the Federal employees or taxpayers. Locals 1857 and 987, American Federation of Government Employees, B-195733, B-196117, February 4, 1980, 80-1 CPD 89.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel