

Pietrovito



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Jantec, Incorporated
File: B-243192
Date: March 14, 1991

Janet L. Dykes for the protester.
Guy R. Pietrovito, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

1. Protest that agency anticipates not exercising an option in the protester's contract and acquiring the services from the National Institute for the Severely Handicapped pursuant to the Javits-Wagner-O'Day Act will not be considered by the General Accounting Office, since it is premature.
2. Contracting agency has no obligation to exercise an option in an existing contract and need not justify such decision with a cost comparison.
3. Since the Committee for the Purchase from the Blind and Other Severely Handicapped is vested with exclusive authority to determine whether particular services should be acquired from qualified workshops for the blind or other severely handicapped individuals under the Javits-Wagner-O'Day Act and since procuring agencies are required to obtain such services from workshops designated by the Committee, the General Accounting Office has no basis to object to the placement of particular services with a designated workshop in lieu of exercising an option in the protester's contract.

DECISION

Jantec, Incorporated protests the award of a contract by the Department of the Air Force to Goodwill Industries through the National Institute for the Severely Handicapped (NISH) for the operation of the base information system (BITS), publication distribution office (PDO) and postal service center (PSC) at Keesler Air Force Base (AFB), in Mississippi. Jantec contends that the agency has improperly made a noncompetitive award in

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lieu of exercising Jantec's lower-priced contract option for the same services.^{1/}

The Air Force has informed us that no final decision has been made regarding an agreement with NISH and Goodwill Industries to perform the BITS, PDO, and PSC services at Keesler AFB. Pursuant to the Javits-Wagner-O'Day Act, 41 U.S.C. §§ 46-48c (1988), the Committee for the Purchase from the Blind and Other Severely Handicapped is considering placing these services on the procurement list from which the agencies are required to purchase. See 56 Fed. Reg. 9941-01 (March 8, 1991). The Air Force indicates that until the Committee decides whether the services will be listed no procurement action, including the exercise of Jantec's contract option, will be taken.

We dismiss the protest as premature. Protests that merely anticipate allegedly improper agency action are speculative and premature. See General Elec. Canada, Inc., B-230584, June 1, 1988, 88-1 CPD ¶ 512. Consequently, there is no basis for us to consider the protester's protest at this time.

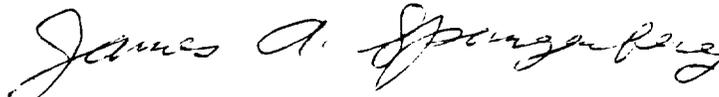
In any case, we would not consider the protest that the Air Force should have exercised an option under Jantec's contract, since such determinations do not fall within our bid protest function. In this regard, an agency's decision not to exercise an option is a matter of contract administration, 4 C.F.R. § 21.3(m)(1) (1990), and contract options are exercised solely at the discretion of the government, that is, a contractor cannot compel an agency to exercise an option in its contract. See California Shorthand Reporting, B-236680, Dec. 22, 1989, 89-2 CPD ¶ 584. There is no obligation for the contracting agency to justify a decision not to exercise an option with a cost comparison. See Western States Mgmt. Servs., Inc., B-233576, Dec. 8, 1988, 88-2 CPD ¶ 575.

With respect to the agency's possible agreement with NISH and Goodwill Industries to perform the required services, once an item or service has been added to the procurement list, contracting agencies are required to procure the item directly from the qualified workshops for the blind or other severely handicapped individuals with the objective of increasing employment opportunities to those individuals. 41 U.S.C. §§ 46-48c; Federal Acquisition Regulation Part 8.7. The Committee has exclusive authority to add or to delete supplies and services as it deems appropriate. See Abel Converting Inc., 67 Comp. Gen. 307 (1988), 88-1 CPD ¶ 233. In light of the Committee's exclusive grant of authority under the Act and the

^{1/} Jantec, under Contract No. F22600-90-C-0011, provides BITS and PDO services at Keesler AFB.

agency's obligation to procure listed supplies and services from qualified workshops, such as Goodwill Industries, we would have no basis to object should the Committee decide to add these services to the procurement list. Whether the workshop will comply with the standards of the Act in performing the services is for consideration by the Committee and agency, and not our Office under its bid protest function.

The protest is dismissed.

A handwritten signature in cursive script that reads "James A. Spangenberg".

James A. Spangenberg
Assistant General Counsel