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LIEBERMAN

DECISION



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

FILE: B-201619

DATE: February 17, 1981

MATTER OF: Urban Enterprises

DIGEST:

Protest against propriety of cost evaluation performed under Office of Management and Budget Circular No. A-76 is dismissed where protester did not exhaust available administrative appeal process.

Urban Enterprises (UE) ^{of} protests the determination by ~~the Department of the Army~~ to perform certain functions in-house rather than contracting out under solicitation No. DABT02-80-B-0088. 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 (A-76), as implemented by Army Circular 235-1 (February 1, 1980).

The solicitation was issued by the Army in order to ascertain the cost of contracting out on the basis of the bids of potential contractors for the services in question. This cost was then compared with the estimated cost of using Government employees to perform the same services. The Army determined to use in-house performance since it was evaluated to be the low cost alternative. Accordingly, the solicitation was canceled.

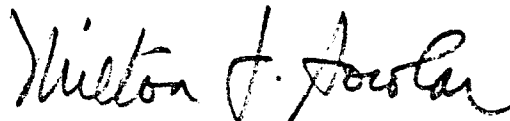
UE argues that it was the low bidder under the solicitation, apparently because two lower bidders withdrew their bids, and that under the original cost comparison its bid was less costly than was performance by the Government. UE alleges that in-house performance only became evaluated as less expensive as the result of untimely and improper revisions in the in-house cost comparison.

Our Office will review A-76 cost evaluations to assure that bidders are not induced to prepare and submit bids which are then arbitrarily rejected because of an erroneous cost evaluation. Crown Laundry and Dry Cleaners, Inc., B-194505, July 18, 1979, 79-2 CPD 38.

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However, where, as here, a relatively speedy review procedure is formally included as part of the administrative decision-making process, the administrative decision is not final until that review procedure has been exhausted. Cf. Sanders Company Plumbing and Heating, B-196075, February 6, 1980, 80-1 CPD 99. In this connection, we note that by letter dated December 3, 1980, Urban was advised by the Army of the appeal procedure and that the final contracting decision would not be made during the period from December 3-24, 1980. Apparently Urban elected not to follow the administrative appeal procedure. Nevertheless, we will not consider this protest challenging the A-76 cost evaluation since the available administrative appeal process was not exhausted. Direct Delivery Systems, B-198361, May 16, 1980, 80-1 CPD 343.

Accordingly, the protest is dismissed.



Milton J. Socolar
General Counsel