

Kidder 119673

DECISION



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

FILE: B-207359.2

DATE: October 7, 1982

MATTER OF: American Federation of Government
Employees, Local 1954

DIGEST:

Termination 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 American Federation of Government Employees, Local 1954 protests the award of a contract under solicitation No. N62467-82-R-0010 issued by the Department of the Navy for base operating services at Whiting Field Naval Air Station, Florida. We dismiss the protest.

The Navy made the decision to contract for the services in question under the guidance of Office of Management and Budget Circular No. A-76, which reflects the policy of the Federal Government to rely on private enterprise for its needs unless the national interest dictates otherwise. As implemented by A-76, the decision whether to contract with the private sector for services or products, in lieu of performance by Government employees, depends largely on a comparison of the costs of these two options. The protester alleges that a fair comparison of the cost of contracting versus in-house performance was not possible here because the successful offeror employed an individual who had assisted the Navy in collecting data needed to compare costs and prepare a statement of work when he was employed by another firm.

Generally, we do not review an agency decision to perform work in-house rather than to contract for the services because we regard the decision as a matter of policy within the province of the executive branch. Crown Laundry and Dry Cleaners, Inc., B-194505, July 18, 1979, 79-2 CPD 38. Where, however, an agency uses the procurement system to aid in its decision making, spelling out in the solicitation the circumstances under which the Government will award or not award a contract, we will review whether the mandated procedures were followed in comparing in-house and contract costs. See Serv-Air, Inc.; AVCO, 60 Comp. Gen. 44 (1980), 80-2 CPD 317. Because the union's complaint does not fall within this exception, the matter is not within the protest decision function of this Office. See Local 1486, American Federation of Government Employees, B-198602, June 6, 1980, 80-1 CPD 396; National Federation of Federal Employees, B-187834, November 26, 1976, 76-2 CPD 451.

Moreover, with respect to the successful offeror's allegedly unfair advantage in the cost comparison, we have refrained from ruling upon a Federal employee union's complaint concerning the conduct of a competition in similar circumstances, holding that the union essentially was seeking our review of the basic decision to contract in the first place. See Local F76, International Association of Firefighters, B-194084, March 28, 1979, 79-1 CPD 209. In any case, even if we were to consider the union's complaint, it is clear that Whiting Field's employees could not have been prejudiced since no potential contractor could have obtained access to a greater number of Whiting Field's records than were available to the Government itself.

Finally, the union is not an "interested party" under our Bid Protest Procedures, 4 C.F.R. § 21.1(a) (1982), to protest, in behalf of the disappointed bidders, that the successful offeror had an unfair advantage over those bidders in the competition. See Local Union No. 3, International Union of Operating Engineers, B-201363, March 30, 1981, 81-1 CPD 236.

The protest is dismissed.

F. H. Barclay, Jr.

for

Harry R. Van Cleve
Acting General Counsel