23563

DECISION

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

FILE: B-208952 DATE: November 10, 1982

MATTER OF: Electronic Processing, Inc.

DIGEST:

As a general rule, whether a contracting agency should contract out for any particular work or perform the work in-house is a policy matter which GAO will not review. An exception to this rule is where the agency issues a competitive solicitation for purpose of ascertaining the cost of contracting. Here, however, no solicitation was issued and the agency based its decision to do the work in-house on an internal study. Therefore, this exception is not applicable and GAO will not review the matter.

Electronic Processing, Inc. (EPI), protests the decision of the Administrative Office of the United States Courts (AO) to establish its own in-house automated Bankruptcy Noticing System. EPI believes that it can provide this service more cheaply than AO can on its own and requests that our Office determine whether it is in the Government's best interest for AO to perform this service in-house.

We dismiss the protest.

Approximately 3 years ago, EPI was awarded a contract to develop and conduct a test program in the United States Bankruptcy Court in New Jersey for a noticing system. This system was to provide an automated process of preparing and mailing notices, maintaining claims registers and calculating distributions in bankruptcy cases. AO found this test program to be a success, but also found it to be far more expensive than anticipated. Consequently, in determining how to implement the system for all the bankruptcy courts, AO initiated a study which concluded that by establishing its own in-house automated noticing system, it could achieve a net annual savings of $1,703,800.

EPI, however, argues that AO's calculations are inaccurate. EPI claims that its costs would go down significantly if it were given the opportunity to run the full-scale program. In light of this, EPI maintains that AO should not have used the costs for running the test program as a yardstick for measuring the cost of contracting out. In EPI's opinion, AO should seek competitive bids for the full-scale program just as AO had indicated that it would when it awarded EPI the test program contract. If this were done, EPI believes that AO would discover that it is considerably less expensive to contract out for the work than to perform it in-house.

We have held that an agency decision to perform work in-house rather than to contract out involves a policy matter which is to be resolved within the executive branch and not by our Office. However, we will review cases of this nature when a competititve solicitation has been issued for the purpose of ascertaining the cost of contracting and it is alleged that the cost comparison between performing the work in-house and contracting out is faulty or misleading. Crown Laundry and Dry Cleaners, Inc., B-194505, July 18, 1979, 79-2 CPD 38. This limited exception is not applicable where no solicitation has been issued. Childrey, Contract Services Incorporated, B-207259, May 17, 1982, 82-1 CPD 469.

Although AO is not part of the executive branch, we believe that the above-mentioned rules are generally applicable to the present situation. Therefore, since AO did not issue a solicitation to ascertain the cost of contracting out for the full-scale noticing system, but instead based its decision on an internal study, we find that AO's decision to perform the work in-house is a policy matter which our Office will not review.

Protest dismissed.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel