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**DECISION**



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

**FILE:** B-210188

**DATE:** January 17, 1983

**MATTER OF:** Taxpayers generally and Federal employees of  
Fort Eustis, Virginia

**DIGEST:**

Agency denial of protest against determination under Office of Management and Budget Circular No. A-76 to contract for services rather than have them performed in-house is matter of executive branch policy not reviewable as bid protest, nor as request for investigation, when filed by attorney representing Federal employees and taxpayers generally.

Oscar H. Blayton, Attorney at Law, Inc., filed a protest and request for an investigation with this Office on December 15, 1982, in which he objected to the Department of the Army's decision to deny his protest to the Army of solicitation No. DABT57-82-R-0001 on behalf of "taxpayers and Directorate of Industrial Operations (DIO) employees of Fort Eustis, Virginia."

The Army has informally advised us that the initial protest to the Army was against 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

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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 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.

Accordingly, the protest and request for investigation are dismissed.

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