

DECISION

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

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FILE: B-214104**DATE:** January 23, 1984

MATTER OF: Hawaii Federal Lodge No. 1998, International
Association of Machinists and Aerospace
Workers

DIGEST:

Determination under Office of Management and Budget Circular No. A-76 to contract for services rather than have them performed in-house is a matter of executive branch policy not reviewable pursuant to a bid protest filed by a union local representing federal employees.

Hawaii Federal Lodge No. 1998, International Association of Machinists and Aerospace Workers protests the Department of the Army's decision to contract for housekeeping services at Tripler Army Medical Center, Hawaii, rather than perform the services in-house.

The protest involves a decision made in accordance with Office of Management and Budget 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 for services instead of performing the work in-house. These determinations are regarded as beyond the scope of our bid protest decision function because the provisions of A-76 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.

We have 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. See Crown Laundry and Dry Cleaners, Inc., B-194505, July 18, 1979, 79-2 CPD 38. For that reason, we do entertain protests which allege faulty or misleading cost comparisons of in-house estimates with bids received. See Serv-Air, Inc.; AVCO, 60 Comp. Gen. 44 (1980), 80-2 CPD 317. In those cases, however, our review

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is intended to protect parties that competed from the arbitrary rejection of their bids; our review does not extend to nonbidders such as federal employees or union locals that represent federal employees. National Association of Government Employees, Local R14-89, B-211903, July 11, 1983, 83-2 CPD 77.

The protest is dismissed.

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