

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548*60046*

FILE: B-184916

DATE: October 10, 1975

MATTER OF: Meldick Services, Inc.

*97830***DIGEST:**

Protest alleging that agency's cost comparison utilized to support determination to retain food service operation in-house rather than contracting with commercial source was improper is not for consideration, since applicable provisions of OMB Circular A-76 are regarded as a matter of Executive policy which do not establish legal rights and responsibilities and which are not within GAO decision functions.

Meldick Services, Inc. (Meldick), has protested the decision by the Department of the Air Force to retain the food service operation at Andrews Air Force Base in-house rather than contracting with it.

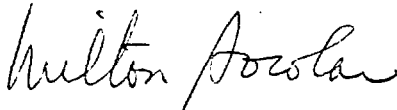
Office of Management and Budget (OMB) Circular A-76 and Department of Defense (DOD) implementing directives (DOD Instruction 4100.33, Air Force Regulation 26-12) express a general policy preference for contracting with private, commercial enterprises as opposed to the Government's performing the required services in-house. However, the Circular provides specific circumstances under which the Government may provide a commercial service for its own use, one of which is where procurement of the service from a commercial source will result in higher cost to the Government. OMB Circular A-76 para. 5e. The Air Force, after analyzing the comparative cost, found that retaining the food service in-house would be more economical than contracting with Meldick. However, Meldick alleges that the cost analysis overstated the contract costs and understated the in-house costs. In that connection, in 53 Comp. Gen. 86, 88 (1973), it was stated:

"* * * we have always regarded the provisions of Circular A-76 as matters of Executive policy which do not establish legal rights and responsibilities and which are not within the decision functions of the General Accounting Office. * * *"

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See also B-179943, December 26, 1973; General DataComm Industries, Inc., B-182556, April 9, 1975, 75-1 CPD 218; and Globe Air, Inc., B-183396, June 26, 1975, 75-1 CPD 389.

Accordingly, we will not consider the protest on the merits and are closing our file on the matter.

for 
Paul G. Dembling
General Counsel