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United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply
Refer to: B-201734

March 4, 1981

[Protest of Department of Labor Contract]

American Federation of Government Employees
Local No. 12, AFL-CIO
P.O. Box 865
Washington, D.C. 20044

Attention: Mr. Earl S. Simpson

Gentlemen:

We refer to your letter of January 9, 1981 protesting the decision by the Department of Labor to contract for certain computer services under solicitation No. L/A 80-21 rather than have them performed in-house.

We have been informally advised by the Department of Labor that the agency's decision was made under the guidance of Office of Management and Budget Circular No. A-76. We have consistently declined to consider protests concerning the propriety of agency decisions under A-76 to contract in lieu of performing work in-house on the basis that they involve matters of Executive branch policy which we do not view as part of our bid protest function. See, e.g., Local F76, International Association of Firefighters, B-194084, March 28, 1979, 79-1 CPD 209; Rand Information Systems, B-192608, September 11, 1978, 78-2 CPD 189.

In Crown Laundry and Dry Cleaners, Inc., B-194505, July 18, 1979, 79-2 CPD 38, we indicated that we would consider detrimental to the competitive system a cost comparison which did not conform to the terms of a solicitation where the Government stated the circumstances under which it would (or would not) award a contract and induced the submission of bids on that basis. Accordingly, we do consider protests which allege a faulty or misleading comparison. See Serv-Air, Inc.; AVCO, B-195183, October 24, 1980, 60 Comp. Gen. ___, 80-2 CPD 317. However, our review in those cases is intended to protect parties that competed from the arbitrary rejection of their bids, and thus does not extend to nonbidders such as Local No. 12.



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Local 1617, American Federation of Government Employees,
B-196009, March 4, 1980, 80-1 CPD 171; Locals 1857 and 987,
American Federation of Government Employees, B-195733,
B-196117, February 4, 1980, 80-1 CPD 89.

[Accordingly, your protest will not be considered.]

Nonetheless, in view of the nature of the allegations,
we are referring the matter to the Department of Labor's
Office of the Inspector General.

Sincerely yours,

For *Harry R. Van Cleave*
Milton J. Socolar
General Counsel