

GAO

United States General Accounting Office
OGC/Index-Digest Section



March 1988

Digests of Unpublished
Decisions of the
Comptroller General
of the United States

United States General Accounting Office

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PREFACE

This publication is one in a series of monthly pamphlets entitled "Digests of Unpublished Decisions of the Comptroller General of the United States" which have been published since the establishment of the General Accounting Office by the Budget and Accounting Act, 1921. A disbursing or certifying official or the head of an agency may request a decision from the Comptroller General pursuant to 31 U.S. Code § 3529 (formerly 31 U.S.C. §§ 74 and 82d). Decisions in connection with claims are issued in accordance with 31 U.S. Code § 3702 (formerly 31 U.S.C. § 71). Decisions on the validity of contract awards are rendered pursuant to the Competition in Contracting Act, 98 Pub. L. 369, July 18, 1984.

Decisions in this pamphlet are presented in digest form and represent approximately 90 percent of the total number of decisions rendered annually. Full text of these decisions are available through the circulation of individual copies and should be cited by the appropriate file number and date, e.g., B-219654, Sept. 30, 1986.

The remaining 10 percent of decisions rendered are published in full text. Copies of these decisions are available through the circulation of individual copies, the issuance of monthly pamphlets and annual volumes. Decisions appearing in these volumes should be cited by volume, page number and year issued, e.g., 65 Comp. Gen. 624 (1986).

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APPROPRIATIONS/FINANCIAL MANAGEMENT

APPROPRIATIONS/FINANCIAL MANAGEMENT

Appropriation Availability B-226801 March 2, 1988

Amount Availability

Antideficiency Prohibition

Violation

The Veterans Administration (VA) implements a variety of entitlement programs under which it pays compensation and pension benefits. Compensation and pension benefit claims must be recorded as obligations when eligibility for the benefits is established by adjudication regardless of the amount of resources in available appropriations. The VA violated 31 U.S.C. § 1501 by failing to record compensation and pension benefit claims approved by adjudication between September 12, 1986 and September 30, 1986 as obligations in fiscal year 1987 appropriation was available for fiscal year 1986 obligations, the Antideficiency Act, 31 U.S.C. § 1341 (a)(1), precluded the use of the appropriation to liquidate fiscal year 1986 obligations.

APPROPRIATIONS/FINANCIAL MANAGEMENT

Obligation

Expenditure Recording

Fringe Benefits

The Veterans Administration (VA) implements a variety of entitlement programs under which it pays compensation and pension benefits. Compensation and pension benefit claims must be recorded as obligations when eligibility for the benefits is established by adjudication regardless of the amount of resources in available appropriations. The VA violated 31 U.S.C. § 1501 by failing to record compensation and pension benefit claims approved by adjudication between September 12, 1986 and September 30, 1986 as obligations in fiscal year 1987 appropriation was available for fiscal year 1986 obligations, the Antideficiency Act, 31 U.S.C. § 1341 (a)(1), precluded the use of the appropriation to liquidate fiscal year 1986 obligations.

APPROPRIATIONS/FINANCIAL MANAGEMENT

Accountable Officers B-230118 March 1, 1988

Disbursing Officers

Relief

Illegal/Improper Payments

Fraud

U.S. Army Finance and Accounting Officer is relieved of liability for an improper payment made by an unidentified Class A agent officer in cashing a fraudulently endorsed check. It appears that the standard operating procedures in effect at the time of the loss were adequate to prevent losses of this type from occurring. The loss in this case was the result of criminal activity outside the control of the finance and accounting officer.

APPROPRIATIONS/FINANCIAL MANAGEMENT

Budget Process B-229174.2 March 8, 1988

Appropriated Funds

Authority

Government Vessels

Ready Reservists

Comptroller General opinion holds that the Ready Reserve Fleet established by a 1976 Memorandum of Agreement (MOA) between the Navy and the Maritime Administration (MarAd) is administered and controlled by MarAd. RRF is a subset of the National Defense Reserve Fleet which, under section 11 of the Merchant Ship Sales Act of 1946, is administered and controlled by MarAd (as a delegatee of the Department of Transportation). That ships for the RRF are acquired with Navy appropriations does not support the Navy's conclusion that it is authorized to administer and control the RRF. DOD authorization and appropriations acts and their legislative histories for FY 84 through FY 88 does not disclose any intention by the Congress to authorize a Navy controlled reserve fleet of government-owned merchant vessels. In fact, our review discloses that Congress authorized and appropriated funds to the Navy with the clear understanding that RRF program would be administered and controlled by MarAd.

APPROPRIATIONS/FINANCIAL MANAGEMENT

Appropriation Availability B-230304 March 18, 1988

Purpose Availability

Appropriation Restrictions

Government Corporations

Federal Prison Industries, Inc., may spend its funds for the construction of industrial facilities to provide employment to prisoners and to construct secure camps to house prisoners engaged in public works, or public improvement, projects on behalf of other agencies. It may not use its funds to construct prison facilities nor associated with a federal public works project. 18 U.S.C. § 4125, 4126.

APPROPRIATIONS/FINANCIAL MANAGEMENT

Accountable Officers B-230664 March 21, 1988

Disbursing Officers

Relief

Illegal/Improper Payments

Substitute Checks

Relief is granted Army disbursing official and his deputy under 31 U.S.C. § 3527(c) from liability for improper payment resulting from payee's apparent negotiation of both original and substitute checks. Proper procedures were followed in the issuance of the substitute check, there was no indication of bad faith on the part of the disbursing official or his deputy, and subsequent collection attempts are being pursued.

APPROPRIATIONS/FINANCIAL MANAGEMENT

Appropriation Availability B-230257 March 23, 1988

Disbursing Officers

Relief

Illegal/Improper Payments

Substitute Checks

Relief is granted Army disbursing officer under 31 U.S.C. § 3527(c) from liability for improper payment resulting from payee's negotiation of both original and recertified checks. Proper procedures were followed in the issuance of the recertified check, there was no indication of bad faith on the part of the disbursing officer, and adequate collection efforts are being taken.

APPROPRIATIONS/FINANCIAL MANAGEMENT

Budget Process

B-229738 March 28, 1988

Budget Restrictions

Pensions

Supplemental Annuities

Statutory Exemptions

Railroad Supplemental Annuity Pension Fund is included in "Tier II" of Railroad Retirement system, and should have been exempt from sequestration for that reason in addition to the reasons detailed in GAO's compliance report, "Deficit Reductions for Fiscal Year 1988; Compliance With the Balanced Budget and Emergency Deficit Control Act of 1985," GAO/OCG-88-1, B-221498, Dec. 15, 1987. The codification in Public Law 100-119, of an earlier exemption for railroad retirement tier II was intended to include the Supplemental Annuity Pension Fund, and the legislative history of the Railroad Retirement Act of 1974 classifies supplemental annuities as part of the package of benefits collectively called "tier II." Since the Fund is a part of "tier II," the change in account number does not affect its exempt status, because all budget reference numbers used in the Act are keyed to the Fiscal Year 1986 Budget Appendix.

APPROPRIATIONS/FINANCIAL MANAGEMENT

Claims Against Government B-230244 March 28, 1988

Claim Settlement

Settlement

Foreign/International Tribunals

Award issued by the Iran-United States Claims Tribunal (Tribunal) against the Federal Aviation Administration (FAA) for \$5,499.68, plus interest, on a claim for services the Iran National Airlines Company furnished to the FAA under two invoices dated June 3, 1979 should be certified for payment. The Tribunal was established in accordance with the international agreement between Iran and the United States that settled the crisis resulting from the 1979 seizure of the United States Embassy in Teheran. Under this agreement, the decisions and awards of the Tribunal against either government are final and binding and legally enforceable.

APPROPRIATIONS/FINANCIAL MANAGEMENT

Claims Against Government B-230581 March 28, 1988

Burden of Proof

Factual Issues

Under the claims settlement standards contained in 4 C.F.R. § 31.7, the burden is on the claimant to establish the liability of the United States and the claimant's right to payment. Hence, a supplier of goods ordered by the government must show that the goods were received by the government before his claim for payment may be allowed.

CIVILIAN PERSONNEL

CIVILIAN PERSONNEL

B-228664 March 2, 1988

Travel

Travel Expenses

Voluntary Expenditure

Reimbursement

An employee, who was an infrequent traveler and who was authorized official travel to Germany and return, purchased his airline ticket through a travel agent with personal funds at a cost less than government-procured airfare. In accordance with the provisions of Volume 2, Joint Travel Regulations, the employee may be reimbursed for the airline ticket where he was unaware of the prohibition on purchasing transportation with personal funds from travel agents.

CIVILIAN PERSONNEL

B-229291 March 2, 1988

Travel

Temporary Expenses

Privately-Owned Vehicles

Mileage

The claim of a National Security Agency employee for reimbursement for mileage and parking fees incurred in using his privately owned vehicle to travel to airport in connection with a period of temporary duty is limited to the estimated cost of taxicab fares to and from the carrier's terminal.

CIVILIAN PERSONNEL**B-229291 Con't****Travel****March 2, 1988****Temporary Duty****Travel Expenses****Privately-Owned Vehicles****Parking Fees**

The claim of a National Security Agency employee for reimbursement for mileage and parking fees incurred in using his privately owned vehicle to travel to airport in connection with a period of temporary duty is limited to the estimated cost of taxicab fares to and from the carrier's terminal.

CIVILIAN PERSONNEL**B-228669 March 4, 1988****Compensation****Overpayments****Error Detection****Debt Collection****Waiver**

After an employee was officially notified that she had been overpaid because her pay had been set at an incorrect step of her grade in connection with her promotions, waiver of the erroneous payments must be denied. Under 5 U.S.C. § 5584 waiver of the erroneous payments would not be in accordance with equity and good conscience and in the best interest of the United States because the overpayments at issue were made after she had been notified of the incorrect salary rates. She, therefore, could not have expected to retain the overpayments, and should have made provision for their repayment.

CIVILIAN PERSONNEL B-227786 March 10, 1988

Relocation
Residence Transaction Expenses
Reimbursement
Eligibility
Permanent Duty Stations

An employee is not entitled to real estate selling expenses upon his transfer to a new duty station when the home that was sold was not located at his old duty station and he did not regularly commute between the home and his place of work, as travel regulations require.

CIVILIAN PERSONNEL

Relocation
Residence Transaction Expenses
Reimbursement
Eligibility
Permanent Residences

An employee is not entitled to real estate selling expenses upon his transfer to a new duty station when the home that was sold was not located at his old duty station and he did not regularly commute between the home and his place of work, as travel regulations require.

CIVILIAN PERSONNEL B-228632 March 10, 1988

Compensation
Direct Payroll Deposit
Errors
Fees
Reimbursement

An employee who elected to have her salary deposited directly in her bank account is not entitled to reimbursement of service charges she incurred for checks issued without sufficient funds because the government failed to deposit her salary. There is no statutory or regulatory provision authorizing reimbursement.

Travel**Travel Expenses****Constructive Expenses****Reimbursement**

An employee combined official travel with a personal trip and used a prize won by his wife to cover most of the cost of the travel, the rest of which he paid himself (\$79). He seeks reimbursement for the cost of a round-trip government fare (\$278) representing the official travel. The government has no obligation to reimburse the employee for the constructive cost of travel where no actual travel expenses are incurred. Since the official travel was combined with a personal trip, the employee may only be reimbursed to the extent that his actual expenses do not exceed the cost which would otherwise have been incurred had only official travel been performed. Accordingly, the employee may be reimbursed the \$79 he paid.

CIVILIAN PERSONNEL**Travel****Travel Expenses****Discounts****Use****Reimbursement**

An employee combined official travel with a personal trip and used a prize won by his wife to cover most of the cost of the travel, the rest of which he paid himself (\$79). He seeks reimbursement for the cost of a round-trip government fare (\$278) representing the official travel. The government has no obligation to reimburse the employee for the constructive cost of travel where no actual travel expenses are incurred. Since the official travel was combined with a personal trip, the employee may only be reimbursed to the extent that his actual expenses do not exceed the cost which would otherwise have been incurred had only official travel been performed. Accordingly, the employee may be reimbursed the \$79 he paid.

Relocation**Household Goods****Actual Expenses****Reimbursement****Amount Determination**

Although regulations exclude reimbursement for a second POV as an item of household goods, once the Government Bill of Lading (GBL) method is authorized and an employee chooses to move all or part of his household goods by some other means an employee may be reimbursed his actual expenses for shipping costs, limited to the cost which the government would have incurred had all the household goods been moved on one GBL, in one lot, from one origin to one destination, by the lowest cost carrier providing the level of service required by the agency at the time the GBL method was authorized.

CIVILIAN PERSONNEL**Relocation****Household Goods****Shipment****Restrictions****Privately-Owned Vehicles**

Transferred National Aeronautics and Space Administration employee was erroneously authorized use of two privately owned vehicles (POVs) in contravention of the Federal Travel Regulations, para. 2-2.3. Entitlement to travel expenses in excess of statutory and regulatory limitations cannot be predicated on erroneous advice or purported authorization in erroneous travel order. The general rule that orders may not be modified retroactively to decrease benefits refers only to competent orders and is not a bar to retroactive amendment of travel order provisions clearly in conflict with law or regulation.

CIVILIAN PERSONNEL**B-224660 Con't****Relocation****March 14, 1988****Travel Expenses****Privately-Owned Vehicles****Mileage**

Transferred National Aeronautics and Space Administration employee was erroneously authorized use of two privately owned vehicles (POVs) in contravention of the Federal Travel Regulations, para. 2-2.3. Entitlement to travel expenses in excess of statutory and regulatory limitations cannot be predicated on erroneous advice or purported authorization in erroneous travel order. The general rule that orders may not be modified retroactively to decrease benefits refers only to competent orders and is not a bar to retroactive amendment of travel order provisions clearly in conflict with law or regulation.

CIVILIAN PERSONNEL**B-229230 March 14, 1988****Relocation****Residence Transaction Expenses****Finance Charges**

A transferred employee claims reimbursement for an Adjustable Rate Mortgage (ARM) fee, which was charged him as an expense incident to documenting the lender's interest by endorsement to the title insurance policy. While under paragraph 2-6.2d(2)(e) of the Federal Travel Regulations, finance charges are nonreimbursable, the expense here may be reimbursed. The expense in question was not part of the chain of documentation required in order to obtain financing but was for additional work required by the lender after the loan was approved. Cf. Ray F. Hunt, B-226271, Nov. 5, 1987.

CIVILIAN PERSONNEL

B-229230 Con't

Relocation

March 14, 1988

Residence Transaction Expenses**Loan Document Preparation Fees****Reimbursement**

A transferred employee claims reimbursement for an Adjustable Rate Mortgage (ARM) fee, which was charged him as an expense incident to documenting the lender's interest by endorsement to the title insurance policy. While under paragraph 2-6.2d(2)(e) of the Federal Travel Regulations, finance charges are nonreimbursable, the expense here may be reimbursed. The expense in question was not part of the chain of documentation required in order to obtain financing but was for additional work required by the lender after the loan was approved. Cf. Ray F. Hunt, B-226271, Nov. 5, 1987.

CIVILIAN PERSONNEL**Relocation****Residence Transaction Expenses****Miscellaneous Expenses****Reimbursement**

A transferred employee claims reimbursement for a closing fee paid by him incident to the purchase of a residence at his new station on the basis that the charge was customary in that area. The claim is denied. Miscellaneous real estate expenses reimbursable under the Federal Travel Regulations as a purchaser expense are reimbursable only if it is customary for the purchaser to pay it. According to information obtained from the Department of Housing and Urban Development, the closing fee claimed is not customarily paid by a purchaser in the area.

CIVILIAN PERSONNEL**B-229230 Con't****Relocation****March 14, 1988****Residence Transaction Expenses****Miscellaneous Expenses****Reimbursement**

A transferred employee claims reimbursement for Federal Express charges incurred by him to speed delivery of his mortgage loan application. Paragraph 2-6.2d(1) of the Federal Travel Regulations lists specifically reimbursable expenses in clauses (a) through (e), and in clause (f) authorizes reimbursement for expenses "similar in nature to" the specifically listed items. Since none of the listed authorized expenses relate to delivery fees, the Federal Express fee may not be allowed under any of those clauses, nor under FTR para. 2-6.2f which authorizes reimbursement for other unspecified expenses since the expense was not for a "required service."

CIVILIAN PERSONNEL**B-226465 March 23, 1988****Compensation****Overpayments****Error Detection****Debt Collection****Waiver**

An agency inadvertently stopped deducting health insurance premiums from the salary of an employee who was transferred to an overseas duty station in late 1977, and the error continued until 1982. Although there is no evidence of fraud, misrepresentation, or lack of good faith on the part of the employee, we conclude that he was partially at fault in the continuation of the overpayment. The employee should have reviewed his earnings and leave statements to ascertain whether his health insurance premiums were being deducted from his salary and why his salary had increased as a result of the failure to make such deductions. Thus, waiver of the overpayment is denied.

CIVILIAN PERSONNEL

B-227728 March 23, 1988

**Compensation
Personnel Death
Balances
Payees**

The disposition of the unpaid compensation of a federal employee is governed exclusively by federal statute and regulation. Under federal law, entitlement to such unpaid compensation vests in the beneficiary designated by the employee, notwithstanding any competing claims that may be presented by others not so designated who claim entitlement on the basis of local laws or court orders. Hence, in the case of a Department of Energy employee who named his father as his beneficiary, the father became entitled to the unpaid compensation due the employee at the time of his death, rather than the employee's widow who claimed entitlement to the unpaid federal compensation on the basis of a state court order issued in divorce proceedings.

CIVILIAN PERSONNEL

B-230402 March 23, 1988

**Relocation
Residence Transaction Expenses
Inspection Fees
Reimbursement**

An employee is not entitled to reimbursement of a home inspection fee he paid incident to purchase of a residence at his new duty station, since he obtained the inspection to protect his own property interest, rather than to complete the sale by satisfying a customary obligation of a purchaser.

CIVILIAN PERSONNEL

B-227189 March 25, 1988

Relocation

House-Hunting Travel

Travel Expenses

Reimbursement

Amount Determination

An employee transferred to Denver, Colorado, from Washington, D.C., claims entitlement to higher per diem rate for a househunting trip than the rate authorized by his agency and, in addition, seeks reimbursement for kennel fees incurred during the period of that trip. In accord with the provisions of FTR paragraphs 1-7.5a and 2-4.3b he is entitled only to the standard CONUS per diem rate rather than the higher rate prescribed for temporary duty travel to Denver. (See FTR Appendix 1-A). Since kennel fees are not specifically authorized by either the travel or relocation statutes and regulations, such fees may not be allowed.

CIVILIAN PERSONNEL

B-230348 March 25, 1988

Compensation

Compensatory Damages

Authority

Comptroller General does not have authority to review or comment upon Merit System Protection Board (MSPB) decision. Therefore, any payment made by disbursing officer pursuant to MSPB decision is not subject to review or exception by the Comptroller General.

Travel**Actual Subsistence Expenses****Eligibility**

An employee, in advance of an overseas transfer, performed vacation travel away from his permanent duty station. He returned to his permanent duty station for a short period to accompany his spouse while she completed the steps necessary to become a naturalized citizen prior to their overseas travel. The employee's claim for his wife's travel, subsistence, and other expenses on her behalf under 5 U.S.C. § 5702 (1982) is denied. Only employees traveling away from their permanent stations on official business are entitled to travel and subsistence reimbursement. Since the employee's spouse was not an employee as defined in 5 U.S.C. § 5701(2), her travel expenses may not be allowed.

CIVILIAN PERSONNEL**Travel****Permanent Duty Stations****Actual Subsistence Expenses****Prohibition**

An employee, in advance of an overseas transfer, performed vacation travel away from his permanent duty station. He returned to his permanent station for a short period to accompany his spouse while she was examined to become a naturalized citizen prior to their overseas travel. His claim for subsistence expenses is denied. Under the provisions of paragraph 1-7.6a of the Federal Travel Regulations, the government may not pay subsistence expenses to employees at their official duty stations.

CIVILIAN PERSONNEL**B-229074 Con't****Travel****March 28, 1988****Travel Expenses****Official Business****Determination****Burden of Proof**

An employee, in advance of an overseas transfer, performed vacation travel away from his permanent duty station. He returned to his permanent duty station for a short period to accompany his spouse while she completed the steps necessary to become a naturalized citizen prior to their overseas travel. The employee's claim for his wife's travel, subsistence, and other expenses on her behalf under 5 U.S.C. § 5702 (1982) is denied. Only employees traveling away from their permanent stations on official business are entitled to travel and subsistence reimbursement. Since the employee's spouse was not an employee as defined in 5 U.S.C. § 5701(2), her travel expenses may not be allowed.

An employee, in advance of an overseas transfer, performed vacation travel away from his permanent duty station. He returned to his permanent station for a short period to accompany his spouse while she was examined to become a naturalized citizen prior to their overseas travel. His claim for travel expenses for himself to return to his permanent station is denied. Under 5 U.S.C. § 5702 and paragraphs 1-1.4 and 1-11.3b of the Federal Travel Regulations, in order for travel to be deemed to be on official business, it must be authorized or approved in writing. Since he had not been on authorized official business away from his permanent station, his return travel to his permanent station may not be paid.

Travel

Actual Subsistence Expenses

Credit Cards

Use

Finance and Accounting Officer, Defense Nuclear Agency, is advised that we have no legal objection to proposal to use Citicorp Diners Club corporate charge cards since the proposal would limit the risk to the government to the maximum extent possible. The cards are to be used by designated officials for lodging and subsistence expenses incurred by Soviet inspection teams in this country in compliance with the INF Treaty. Any particular problems or question as to the individual's or government's liability may be presented to this Office for determination. See cases cited.

MILITARY PERSONNEL

MILITARY PERSONNEL

B-228828 March 23, 1988

Pay

Overpayments

Error Detection

Debt Collection

Waiver

A former Air Force enlisted member who was voluntarily discharged early received a large unexpected payment upon discharge for final pay and leave, when he knew or should have known he was in debt to the service for the unearned portion of his reenlistment bonus. He is not without fault in the matter so as to permit waiver of the final pay overpayment. Further, financial hardship alone resulting from collection is not sufficient reason for a member to retain the payment that he should have known did not belong to him.

PROCUREMENT

PROCUREMENT **B-228097.2** **March 1, 1988**
Sealed Bidding **88-1 CPD 209**
Invitations for Bids
Post-Bid Opening Cancellation
Justification
Funding Restrictions

Notwithstanding the validity of the government's estimate for a procurement or the agency determination that the low responsive bid price is unreasonable, an agency's cancellation of solicitation after bid opening is not legally objectionable where it determined after bid opening that sufficient funds were not available to make award to the low responsive bidder. Under such circumstances, the agency is not required to award a contract under the solicitation for less than the total amount of work solicited.

PROCUREMENT **B-229493** **March 1, 1988**
Competitive Negotiation **88-1 CPD 210**
Requests for Proposals
Competitive Restrictions
Justification
Urgent Needs

General Accounting Office will not object to agency's decision to limit competition to approved manufacturers where agency's requirements are urgent and the agency does not have the technical data package needed to conduct a competitive procurement.

PROCUREMENT
Sealed Bidding
Bid Guarantees
Sureties
Acceptability

B-229655 March 1, 1988
88-1 CPD 211

Solicitation provision which, in accordance with a deviation from the Federal Acquisition Regulation (FAR), precludes the use of individuals as security for bid, payment and performance bonds is not objectionable where the deviation properly was authorized under the FAR, and is a temporary element of a pilot contracting program aimed at improving the efficiency of the agency's procurement efforts.

PROCUREMENT
Competitive Negotiation
Best/Final Offers
Rejection
Qualified Offers

B-229678 March 1, 1988
88-1 CPD 212

Protester's proposal was properly rejected as unacceptable where firm took exception in its best and final offer to warranty provision of solicitation deemed to be material. An offeror should not anticipate a further opportunity to revise its proposal after it makes its "best and final" submission.

PROCUREMENT B-229691; B-229728
Socio-Economic Policies March 1, 1988
Small Businesses 88-1 CPD 213
Competency Certification
Eligibility
Criteria

PROCUREMENT
Socio-Economic Policies
Small Businesses
Responsibility
Competency Certification
GAO Review

Eligibility for a certificate of competency (COC) under the Small Business Administration (SBA) regulations is conditioned on a small business' performance of a significant portion of the contract work. The General Accounting Office will not review an SBA determination that a firm is ineligible for a COC on this ground except in limited circumstances.

PROCUREMENT B-229711 March 1, 1988
Competitive Negotiation 88-1 CPD _____
Discussion
Adequacy
Criteria

Protester was not prejudiced by agency's failure to conduct meaningful discussions concerning its high price because the protester's price was so much greater than lowest offers that the protester had no reasonable chance for award.

PROCUREMENT

B-229711 Con't

**Competitive Negotiation
Offers**

March 1, 1988

Cost Realism

Evaluation

Administrative Discretion

Protest that agency improperly failed to conduct cost realism analysis is denied where request for proposals (RFP) called for fixed-price offers and clause regarding cost realism was omitted from RFP. While the RFP may have been ambiguous, the record shows that protester reasonably should have known that agency might not conduct a cost realism analysis.

PROCUREMENT

B-229922 March 1, 1988

**Competitive Negotiation
Hand-Carried Offers**

88-1 CPD 214

Late Submission

Acceptance Criteria

Acceptance

Protest that hand-carried proposal delivered to the bid opening room of an agency other than the contracting agency was not late because it was delivered to the federal government before the time proposals were due is denied since to be timely a proposal must be received in the place designated for the receipt of proposals by the required time.

Agency's actions did not cause proposal to be submitted late where commercial carrier delivered proposal to the bid opening officer of another agency and did not bring the proposal to the room specified in the solicitation until after the closing time for receipt of proposals.

PROCUREMENT

B-226311 March 2, 1988

Payment/Discharge

88-1 CPD

Shipment Costs

Additional Costs

Evidence Sufficiency

Even though a carrier fully loads its vehicles to satisfy government requirements, merely loading a vehicle to full capacity does not provide a basis for exclusive-use-of-vehicle charges without a request for such service annotated on the bill of lading.

A carrier claimed additional charges where some of the GSA Notices of Overcharge show that the overcharges were based on gross weights while others did not specify gross or net. In the absence of compelling contrary evidence, it was not improper for GSA to accept the shipping agency's report indicating that all Government Bills of Lading involved contained the gross weights of shipments, as required by the carrier's tender, rather than net weights. Thus, GSA's disallowance of the carrier's claims is sustained.

PROCUREMENT

Payment/Discharge

Shipment Costs

Rate Schedules

Interpretation

A tender offered a decreasing scale of rates to correspond with an increasing scale of weights, up to 6,000 pounds. The carrier assessed the higher 2,000-pound rate on weights in excess of 6,000 pounds, for example, on 2,000 pounds of an 8,000-pound shipment. We sustain the General Services Administration's (GSA) determination that the 6,000-pound weight was a truckload minimum weight and thus, the 6,000-pound rate is applicable to the entire shipment.

PROCUREMENT B-229525 Con't
Competitive Negotiation March 2, 1988
Offers
Evaluation
Technical Acceptability

Agency reasonably rejected protester's proposal which failed to provide sufficiently detailed information to establish that the equipment offered would meet the solicitation requirements.

PROCUREMENT B-229531 March 2, 1988
Sealed Bidding 88-1 CPD 219
Bids
Error Correction
Low Bid Displacement
Propriety

Protest that the contracting agency improperly disallowed correction after bid opening of an alleged mistake in a firm's bid which would displace other lower bidders is sustained where examination of the invitation and the bid itself substantially reveals that a mistake had been made, how it was made, and what the bidder intended to bid, and where the bid could be readily corrected by applying standard mathematical calculation.

PROCUREMENT B-229559 March 2, 1988
Contractor Qualification 88-1 CPD 220
Responsibility
Contracting Officer Findings
Negative Determination
GAO Review

Protest against a negative determination of responsibility is sustained where the determination is based primarily on unreasonable or unsupported conclusions of a pre-award survey.

PROCUREMENT
Sealed Bidding
Bids

B-230188 March 2, 1988
88-1 CPD 224

Late Submission
Acceptance Criteria
Government Mishandling

The Postal Services' late delivery of a bid does not constitute government mishandling after receipt at government installation so as to permit consideration of the bid, because the term "government" as used in the late bid clause means the contracting activity, not the Postal Service. Late bids that are not sent by registered or certified mail 5 days prior to bid opening can only be considered if there was government mishandling after receipt at the government installation.

PROCUREMENT
Competitive Negotiation
Offers

B-229698 March 3, 1988
88-1 CPD 225

Evaluation
Cost Estimates

Agency properly limited evaluation of cost proposals to only task identified in solicitation, rather than maximum quantity of labor-hour effort, since maximum quantity was based on general, non-task specific estimates in solicitation, which did not take into consideration individual offerors' technical approach or efficiency.

PROCUREMENT
Bid Protests
GAO Procedures
GAO Decisions
Reconsideration

B-229710.2, et al.
March 3, 1988
88-1 CPD 226

Requests for reconsideration are denied where protester fails to demonstrate factual or legal error or provide any information not previously considered, but only reiterates arguments considered in the initial protests.

PROCUREMENT
Sealed Bidding
Bids
Options
Evaluation

B-229747 March 3, 1988
88-1 CPD 227

There are no legal or regulatory requirements that an agency evaluate options in a particular procurement.

PROCUREMENT
Sealed Bidding
Invitations for Bids
Amendments
Acknowledgement
Waiver

B-229800 March 3, 1988
88-1 CPD 228

Where solicitation required first article test report and commercial manuals, and amendment only added separate line items for pricing these requirements, bidder's failure to acknowledge the amendment may be waived as minor informality where bidder was eligible for waiver of first article and where solicitation stated that omission of prices for manuals would be construed to mean that cost of manuals is included in the offered price for the principal item.

PROCUREMENT
Bid Protests
Transportation Contracts
Bills of Lading
GAO Review

B-229890 March 3, 1988
88-1 CPD _____

Protest concerning Army request for carriers' rate tenders is dismissed since the request was issued under authority of the Transportation Act of 1940, as amended, 49 U.S.C. § 10721 (1982), and the transportation services will be obtained through the use of a government bill of lading and not under the government's procurement system.

PROCUREMENT**Bid Protests****GAO Procedures****Protest Timeliness****10-Day Rule****B-230112.2 March 3, 1988****88-1 CPD 230**

A protest to the General Accounting Office (GAO) that was not filed within 10 working days of actual knowledge of the initial adverse agency action is untimely. Earlier receipt by GAO of an information copy of letter which was addressed to the contracting officer and did not include a clear indication of a desire for a decision by GAO does not constitute a protest to GAO.

PROCUREMENT**Socio-Economic Policies****Small Business 8(a)****Subcontracting****Administrative Regulations****Compliance****GAO Review****B-230215; B-230215.2****March 3, 1988****88-1 CPD 231**

The General Accounting Office will not review the Small Business Administration's compliance with its own internal guidelines for the Small Business Act's section 8(a) program absent a showing of possible fraud or bad faith on the part of government officials.

PROCUREMENT**Socio-Economic Policies****Small Business 8(a) Subcontracting****Contract Awards****Eligibility**

Whether firm is eligible for assistance under section 8(a) of the Small Business Act is a matter for determination by the Small Business Administration, and is not subject to review by the General Accounting Office.

PROCUREMENT B-146842 March 4, 1988
Socio-Economic Policies 88-1 CPD
Labor Standards
Fringe Benefits
Wage Underpayment
Payment Procedures

PROCUREMENT
Socio-Economic Policies
Labor Standards
GAO Procedures
Procedural Changes

By these letters, we inform the Chairmen of the House Committee on Education and Labor and its Subcommittee on Labor Standards about a clerical error in H.R. 2216, "to amend the Act of March 3, 1931 (known as the Davis-Bacon Act) to revise the standard for coverage under the Act and for other purposes," 100th Cong., 1st Sess. (1987), as reported to the Committee of the Whole House on the State of the Union on February 9, 1988. The error placed the ministerial function of making payments to underpaid employees under the Act with the Comptroller General, rather than transferring the function to the Secretary of Labor. We suggested language to correct the error.

PROCUREMENT B-229521 March 4, 1988
Bid Protests 88-1 CPD 232
GAO Procedures
Protest Timeliness
Apparent Solicitation Improprieties

Post-award protests challenging solicitation's requirement that offeror establish acceptability of hazardous waste treatment process and propriety of alternative means of performing contract are untimely where the bases of the protests were evident from the face of the solicitation and the protests were not filed before the closing date for receipt of initial proposals.

PROCUREMENT B-229521 Con't
Competitive Negotiation March 4, 1988
Offers
Evaluation
Technical Acceptability

The determination of the relative merits of an offeror's technical proposal is primarily the responsibility of the procuring agency and will be questioned only upon a showing of unreasonableness, an abuse of discretion, or that the procuring agency otherwise violated procurement statutes or regulations. Agency reasonably evaluated proposal as technically unacceptable where, after opportunity to correct deficiency, protester still failed to submit proof of acceptability of hazardous waste treatment process proposed.

PROCUREMENT B-229725, et al.
Competitive Negotiation March 4, 1988
Offers 88-1 CPD 234
Evaluation Errors
Prices

Protest that agency improperly evaluated awardee's price as low is sustained where the awardee proposed a 12-month basic termination liability (BTL) charge to the government and the solicitation provided that in evaluating price a BTL charge for any period of time that exceeded the contract's estimated service life of less than 12 months would be considered.

PROCUREMENT

B-229759.3 March 4, 1988

Bid Protests

88-1 CPD 235

GAO Procedures

GAO Decisions

Reconsideration

Request for reconsideration of decision dismissing as untimely a protest challenging nonresponsibility determination because it was filed more than 10 working days after protester learned of adverse agency action is denied where protester fails to present evidence that original decision was based on error of law or fact.

PROCUREMENT

B-229793 March 4, 1988

Bid Protests

88-1 CPD 236

Bias Allegation

Allegation Substantiation

Burden of Proof

Unfair or prejudicial motives will not be attributed to an agency's procurement officials simply on the basis of inference or supposition.

PROCUREMENT

Competitive Negotiation

Competitive Advantage

Incumbent Contractors

A competitive advantage accruing to an incumbent is not per se objectionable unless it is a result of preferential treatment or other unfair action by the government.

PROCUREMENT B-229793 Con't
Competitive Negotiation March 4, 1988
Offers
Evaluation Errors
Evaluation Criteria
Application

Protest alleging the use of undisclosed subjective evaluation criteria is denied where the record indicates that all proposals were scored according to the announced criteria in the solicitation.

PROCUREMENT B-230266 March 4, 1988
Socio-Economic Policies 88-1 CPD 237
Small Businesses
Responsibility
Negative Determination
GAO Review

Where a small business concern is determined to be nonresponsible by a contracting officer, General Accounting Office will not review the subsequent refusal by the Small Business Administration (SBA) to issue a certificate of competency absent a showing of possible fraud or bad faith on the part of the contracting officials or of SBA's failure to consider vital information bearing on the firm's responsibility.

PROCUREMENT
Socio-Economic Policies
Small Businesses
Responsibility
Negative Determination
Prior Contract Performance

Agency may examine past failure to comply with the Cargo Preference Act in making responsibility determination.

PROCUREMENT **B-229988 March 8, 1988**
Bid Protests **88-1 CPD 240**
Allegation Substantiation
Burden of Proof

Allegation that awardee was afforded an opportunity to review the protester's proposal is regarded as mere speculation where no evidence is submitted to support the allegation.

PROCUREMENT **B-230298 March 8, 1988**
Sealed Bidding **88-1 CPD 241**
Invitations for Bids
Evaluation Criteria
Patent Royalties

Addition of royalty fee evaluation factor to bids is not improper merely because it is not included under Federal Acquisition Regulation § 14.201-8, which lists only certain price-related factors that may be applicable, since this listing is not by its terms exclusive of other price-related factors which may be reasonable to evaluate when in the best interest of the government.

Addition of evaluation factor to bids for items manufactured under a value engineering change proposal (VECP) to reflect royalty fee government must pay for VECP items is unobjectionable, since the evaluation factor represents an actual cost to the government of contracting for a VECP item.

PROCUREMENT

B-229529 March 9, 1988

Sealed Bidding

88-1 CPD 243

Invitations for Bids

Evaluation Criteria

Prices

Overhead Costs

PROCUREMENT

Sealed Bidding

Invitations for Bids

Evaluation Criteria

Prices

Profits

Where an invitation for bids requires bidders to bid fixed labor rates, overhead rates, and profit percentages to be used in pricing work during contract performance, and requires a total price for cost comparison purposes based on the workload for the prior year without explicitly stating that the total price should include overhead and profit, a protest that a bidder was not required to reflect overhead and profit in its total price is without merit since a proper determination of the expected cost of contracting with the firm cannot be made without evaluating these items.

PROCUREMENT

B-229622 March 9, 1988

Bid Protests

88-1 CPD 244

GAO Procedures

Preparation Costs

Where contracting agency lost the protester's quote, claim for bid preparation and protest costs is denied since mere negligence or lack of due diligence by the agency, standing alone, does not rise to the level of arbitrary or capricious action which provides a basis for the recovery of bid preparation and protest costs.

PROCUREMENT

B-229680.2 March 10, 1988

Bid Protests

88-1 CPD 250

GAO Procedures

GAO Decisions

Reconsideration

Request for reconsideration is denied where the protester essentially restates arguments previously considered in original decision because a request for reconsideration must detail the factual and legal grounds warranting reversal of decision, specifying errors of law made or information not previously considered.

PROCUREMENT

B-228429.5 March 11, 1988

Competitive Negotiation

88-1 CPD 252

Offers

Competitive Ranges

Exclusion

Administrative Discretion

General Accounting Office will not disturb an agency's decision to exclude a protester from the competitive range on ground that it has no reasonable chance for award when, considering the relative superiority of other proposals, this determination was reasonable.

PROCUREMENT

**Competitive Negotiation
Offers**

**Evaluation
Downgrading
Propriety**

B-228429.5 Con't

March 11, 1988

PROCUREMENT

**Competitive Negotiation
Offers**

**Evaluation
Personnel Experience**

Protest that evaluation of qualifications and experience of protester's proposed key personnel was improper is denied where the record shows that the agency's downgrading of the protester's proposal for failure to contain documentation substantiating the experience of its work force was reasonable and in accordance with evaluation criteria which expressly provided that offers containing such evidence would be evaluated more favorably by the government.

PROCUREMENT

**Competitive Negotiation
Offers**

**Evaluation
Personnel Experience**

PROCUREMENT

**Competitive Negotiation
Offers**

**Organizational Experience
Evaluation
Propriety**

Protest that technical evaluation of protester's corporate experience was improper because of agency's failure to afford proper consideration to qualifications and experience of proposed key personnel is denied where the record demonstrates that the agency considered this experience but reasonably concluded that it only partially offset the protester's complete lack of corporate experience.

PROCUREMENT

B-228429.5 Con't

Competitive Negotiation

March 11, 1988

Requests for Proposals**Evaluation Criteria****Prior Contracts****Contract Performance**

Agency properly may consider a claim against an offeror for contract overcharges under evaluation criterion pertaining to past performance of related contracts where the criterion is defined broadly and encompasses all factors of contract performance, including billings for services rendered.

PROCUREMENT

B-229569 March 11, 1988

Competitive Negotiation

88-1 CPD 253

Contract Awards**Administrative Discretion****Cost/Technical Tradeoffs****Technical Superiority**

Where solicitation for new model of high power amplifier for aircraft radio system provided that price would be less significant than technical factors and listed maintainability as one of the primary technical evaluation criteria, contracting agency did not act unreasonably in selecting for award higher-priced proposals offering a superior built-in fault detection capability.

PROCUREMENT**Competitive Negotiation****Discussion****Adequacy****Criteria**

Where the perceived weakness in protester's design for high power amplifier for aircraft radio system was inherent in the design itself rather than in any failure to explain the design, and a significant improvement in the amplifier would require a redesign for which adequate time was lacking, then it does not appear that any lack of detail in the notice of the deficiency provided during discussions deprived the protester of an opportunity to significantly improve its proposal.

PROCUREMENT **B-228569 Con't**
Competitive Negotiation **March 11, 1988**
Offers
Cost Realism
Evaluation
Administration Discretion

Agency may provide for a cost realism analysis of fixed-price proposals for the purpose of measuring an offeror's understanding of the solicitation requirements.

PROCUREMENT **B-229676 March 11, 1988**
Bid Protests **88-1 CPD 254**
GAO Procedures
Protest Timeliness
Good Cause Exemptions
Applicability

PROCUREMENT
Bid Protests
GAO Procedures
Protest Timeliness
Significant Issue Exemptions
Applicability

General Accounting Office (GAO) will not consider the merits of an untimely protest under either the significant issue or good cause exceptions to GAO timeliness requirements where there has been no showing of a compelling reason beyond the protester's control that prevented the timely filing of the protest and the protest does not present a unique issue of widespread interest to the procurement community.

PROCUREMENT

Bid Protests

GAO Procedures

Protest Timeliness

10-Day Rule

Adverse Agency Actions

B-229676 Con't

March 11, 1988

Protest is untimely where filed with General Accounting Office more than 10 working days after protester learned of adverse agency action following protest to the agency.

PROCUREMENT

Bid Protests

Moot Allegation

GAO Review

B-229911 March 11, 1988

88-1 CPD 255

Protester's complaint that solicitation requirement that successful bidder obtain security clearance prior to award unduly restricts competition is dismissed as academic where protester is granted the necessary clearance.

PROCUREMENT

Specifications

Minimum Needs Standards

Determination

Administrative Discretion

Solicitation provision requiring contractors to possess facilities capable of securely storing up to eight pallets of classified materials is not unreasonable where print orders placed under the contemplated contracts will be classified up to and including confidential-restricted data and where protester does not argue that this requirement exceeds the agency's minimum needs.

PROCUREMENT

Bid Protests

GAO Procedures

Protest Timeliness

Apparent Solicitation Improprieties

B-229547 Con't

March 14, 1988

Protest that weaknesses found by contracting agency in protester's proposal concern areas unrelated to evaluation criteria in request for proposal is untimely where the matters were raised with protester during discussions but protest was not filed until after protester lost the competition.

PROCUREMENT

Competitive Negotiation

Offers

Evaluation Errors

Allegation Substantiation

PROCUREMENT

Competitive Negotiation

Offers

Evaluation Errors

Evaluation Criteria

Application

Where the record indicates that procuring agency reasonably evaluated protester's proposal in a manner consistent with the solicitation's evaluation criteria, protest that agency misapplied evaluation criteria is denied.

PROCUREMENT
Bid Protests
GAO Procedures
Administrative Reports
Comments Timeliness

B-229582.10 March 14, 1988
88-1 CPD 261

PROCUREMENT
Bid Protests
GAO Procedures
GAO Decisions
Reconsideration

A protest file which was closed because the protester failed to timely file comments with General Accounting Office (GAO) within 7 working days after the protester received a copy of the contracting agency's report will not be reopened where the comments were sent only to the agency, not GAO.

PROCUREMENT
Sealed Bidding
Low Bids
Error Correction
Price Adjustments
Propriety

B-229839 March 14, 1988
88-1 CPD 262

Where workpapers contain clear and convincing evidence that the low bidder mistakenly omitted certain direct costs from its bid, and where corrected bid would remain low, the bid may be corrected upward to reflect such costs.

In limited circumstances, correction may be allowed even though the intended bid price cannot be determined exactly, provided there is clear and convincing evidence that the amount of the intended bid would fall within a narrow range of uncertainty and would remain low after correction. However, correction is limited to increasing the contract price upward only to the bottom end of the range of uncertainty.

PROCUREMENT
Competitive Negotiation
Requests for Proposals
Terms
Risks

B-229582, et al. Con't
March 15, 1988

Agency did not abuse its discretion by using solicitation terms which imposed maximum risks upon the contractor and minimum administrative burdens upon the government where solicitation format calls for fixed freight prices within a geographic zone even though specific destinations and quantities are not known.

PROCUREMENT
Contract Types
Requirements Contracts
Set-Asides
Applicability

Requirements contracts are exempt from regulations requiring small business/small purchase set-asides.

PROCUREMENT
Contract Types
Requirement Contracts
Use

Protesters who object in general to the use of a particular contract format have not met their burden of showing that agency's decision to use requirements contracting format to satisfy its needs was clearly unreasonable.

General Accounting Office has no basis upon which to object to agency's decision to use requirements contracting when solicitation estimates are established in good faith based on the best information available, notwithstanding protesters' general objections to the estimates.

PROCUREMENT
Contract Types
Requirements Contracts
Use

B-229582, et al. Con't
March 15, 1988

Recommendations contained in an earlier General Accounting Office audit report concerning the agency's use of local requirements contracts are not relevant because the subject matter of the report is not analogous to the protested procurement.

PROCUREMENT
Bid Protests
GAO Procedures
Protest Timeliness
Apparent Solicitation Improprieties

B-229734 March 15, 1988
88-1 CPD 266

Protester's objection to solicitation clause requiring a pledge of assets from each person acting as an individual surety on a bid guarantee is dismissed as untimely. A protest based upon an alleged impropriety in a solicitation which is apparent prior to bid opening must be filed prior to bid opening.

PROCUREMENT
Sealed Bidding
Contract Awards
Government Delays
Propriety

Although an agency may allow a prospective awardee a reasonable time period after bid opening to cure a problem related to responsibility of a surety under a bid bond, it is not obligated to delay award indefinitely while the bidder attempts to cure the problem.

PROCUREMENT

B-229772 March 15, 1988

Specifications

88-1 CPD 267

Minimum Needs Standards

Competitive Restrictions

Justification

Sufficiency

Protest that specification unduly restricts competition is denied where the agency presents a reasonable explanation in support of the specification as necessary to meet its minimum needs and protester, while disagreeing with agency's technical analysis, fails to show that the restriction is clearly unreasonable.

PROCUREMENT

B-230594.2 March 15, 1988

Socio-Economic Policies

88-1 CPD

Small Businesses

Research/Development Programs

Voluntary Participation

Funding Restrictions

The Small Business Development Act of 1982, 15 U.S.C. § 638(f)(1), mandates establishment of the Small Business Innovation Research (SBIR) program in federal agencies with yearly extramural research or research and development obligations of over \$100,000,000, for awards to small businesses. However, there is no legislative restriction on voluntary participation in the program by agencies with smaller budgets. This will not violate competitive requirements of Competition in Contracting Act of 1984, as amended, since 41 U.S.C. § 253(b)(2) specifically authorizes an exception for small business in furtherance of the SBIR program.

PROCUREMENT B-229650, et al.
Competitive Negotiation March 16, 1988
Offers 88-1 CPD 278
Evaluation Errors
Allegation Substantiation

Protest of scoring of proposals is denied where record indicates that the evaluation was reasonable.

PROCUREMENT
Competitive Negotiation
Technical Evaluation Boards
Qualification
GAO Review

Since the selection of evaluators is essentially within the agency's discretion, the General Accounting Office will not appraise the qualifications of such individuals absent a showing of possible fraud, conflict of interest or actual bias on the part of the evaluators.

PROCUREMENT B-229917.3 March 16, 1988
Bids Protests 88-1 CPD 271
GAO Procedures
GAO Decisions
Reconsideration

Request for reconsideration of decision upholding contracting agency's decision to set aside award improperly made on the basis of initial proposals and open negotiations with all offerors in the competitive range is denied where protester fails to show any error of law or fact in prior holding that the need to resolve the statutory violation involved in improper award on initial proposal basis outweighed concerns about technical leveling or transfusion due to opening negotiations.

PROCUREMENT
Bid Protests
Moot Allegation
GAO Review

B-229928 March 16, 1988
88-1 CPD 272

Protest challenging propriety of specifications for one line item included in solicitation is academic and will not be considered on the merits where the solicitation was amended to delete the item in question.

PROCUREMENT
Bid Protests
Premature Allegation
GAO Review

Protest which challenges specifications expected to be included in future solicitations is dismissed as premature.

PROCUREMENT
Bid Protests
Antitrust Matters
GAO Review

B-230095 March 16, 1988
88-1 CPD 273

General Accounting Office will not consider merits of collusive bidding allegations. If the contracting officer suspects collusive bidding, he should refer the matter to the Attorney General.

PROCUREMENT
Payment/Discharge
Federal Procurement Regulations/Laws
Payment Withholding
Fraud

Statute requiring contracting agency not to settle, compromise pay or otherwise adjust any claim involving fraud, prevents an agency from acting on contractor's claim until allegations of bid collusion are resolved by the Attorney General.

PROCUREMENT B-230563 March 16, 1988
Bid Protests 88-1 CPD 274
GAO Procedures
Protest Timeliness
10-Day Rule

Where a protester waits over 3 months for a reply to a complaint to a contracting agency before it files a protest with GAO the protester did not diligently pursue the matter, and its protest with GAO is untimely.

PROCUREMENT B-228444.2; B-228446.2
Bid Protests March 17, 1988
GAO Procedures 88-1 CPD 275
Administrative Reports
Comments Timeliness

PROCUREMENT
Bid Protests
GAO Procedures
GAO Decisions
Reconsideration

Request for reconsideration of dismissal of protests for failure to file comments on agency report in a timely manner is denied, even though protester received report after date it was due, because, after notifying the General Accounting Office (GAO) of late receipt, the protester allowed lapse of more than 7 working days after receiving report before filing its comments at GAO.

PROCUREMENT

**Bid Protests
GAO Procedures
GAO Decisions
Reconsideration**

**B-228445.2; B-228582.2
March 17, 1988
88-1 CPD**

Request for reconsideration is denied where the protester essentially restates arguments previously considered in original decision because a request for reconsideration must detail the factual and legal grounds warranting reversal of decision, specifying errors of law made or information not previously considered.

PROCUREMENT

**Socio-Economic Policies
Small Business 8(a) Subcontracting
Compliance
GAO Review**

**B-229583 March 17, 1988
88-1 CPD 277**

PROCUREMENT

**Socio-Economic Policies
Small Business 8(a) Subcontracting
Use
Administrative Discretion**

The Small Business Administration (SBA) did not act improperly in deciding not to perform an analysis of the impact that placing a contract in the section 8(a) program would have on a small business concern that had performed only a small fraction of the work being procured during prior years, since the procurement properly has been determined to involve "new work," and the SBA's policy is not to perform an impact analysis in such a situation.

PROCUREMENT
Special Procurement
Methods/Categories
In-House Performance
Cost Evaluation
Personnel

B-229764 March 17, 1988
88-1 CPD 279

Agency properly declined to consider offeror's low priced best and final offer for Office of Management and Budget Circular A-76 cost comparison where the agency reasonably found that the offeror's proposal, after discussions, contained major deficiencies concerning staffing and failed to provide required quality control plan.

PROCUREMENT
Socio-Economic Policies
Small Businesses
Size Standards
Administrative Determination
GAO Review

B-229840 March 17, 1988
88-1 CPD 280

The General Accounting Office will not consider that a solicitation has the wrong standard industrial classification used to determine the small business size standard for the procurement, since conclusive authority to determine the proper classification is vested in the Small Business Administration.

PROCUREMENT
Bid Protests
Bias Allegation
Allegation Substantiation
Evidence Sufficiency

B-229885 March 17, 1988
88-1 CPD 281

There must be irrefutable proof that procuring officials had malicious and specific intent to injure a protester before we will presume bad faith on their part toward the protester.

PROCUREMENT

Bid Protests

Non-Prejudicial Allegation

GAO Review

B-229938.2; B-229938.3 Con't

March 17, 1988

Protest based on confusion regarding minimum wage rates is denied where agency takes proper action to clarify wage rate and protester is not prejudiced by misunderstanding the rate.

PROCUREMENT

Bid Protests

GAO Procedures

Protest Timeliness

Apparent Solicitation Improprieties

B-229963 March 17, 1988

88-1 CPD 283

Where request for proposals specifically states that technical considerations are more important than cost, protest that the award should have been based on cost is untimely when filed after the closing date for the receipt of proposals.

PROCUREMENT

Competitive Negotiation

Contract Awards

Administrative Discretion

Cost/Technical Tradeoffs

Technical Superiority

Award of contract to higher-cost, technically superior offeror is not objectionable where award on that basis is consistent with the solicitation's evaluation criteria and the agency reasonably determined that the difference in technical merit outweighed the cost difference.

PROCUREMENT
Sealed Bidding
Contract Awards
Propriety
Line Items

B-230039 March 17, 1988
88-1 CPD 284

An agency may make award on two of three line items where the third line item is found to be defective and the terms of the solicitation provide that the government may accept any item or group of items of a bid.

PROCUREMENT
Bid Protests
GAO Procedures
Protest Timeliness
Apparent Solicitation Improprieties

B-225710.3 March 18, 1988
88-1 CPD 286

Protest based on allegation that test requirement included in solicitation is vague is untimely and will not be considered on the merits when not filed prior to closing date for receipt of initial proposals.

PROCUREMENT
Competitive Negotiation
Offers
Evaluation
Personnel
Cost Evaluation

B-229591; B-229591.2
March 18, 1988
88-1 CPD 287

Protest that awardee did not comply with alleged solicitation requirement that the cost of all clerks performing specified services be included on a fixed-price schedule is denied where the solicitation allowed each offeror to decide on the size and composition of its fixed-price staff and did not prohibit the pricing of clerks in the rates quoted on variable-quantity schedules.

PROCUREMENT

B-230014 March 18, 1988

Bid Protests

88-1 CPD 289

Non-Prejudicial Allegation

GAO Review

Allegation by protester, a small disadvantaged business (SDB) concern whose unpriced bid was rejected as nonresponsive, that brand-name-or-equal solicitation should be canceled and requirement resolicited because remaining bidders either did not offer "equal" products or were not SDB concerns, is without merit where feature protester states is only possessed by its brand-name item was not listed as salient characteristic in the solicitation and where the solicitation was not set aside for SDB concerns.

PROCUREMENT

Sealed Bidding

Bids

Responsiveness

Price Omission

Failure to include in bid any price for supplies solicited renders bid nonresponsive and omission cannot be corrected after bids are opened.

PROCUREMENT

B-230035 March 18, 1988

Bid Protests

88-1 CPD 290

GAO Procedures

Interested Parties

Direct Interest Standards

Protester which is not the low bidder is not an interested party to maintain a protest that its bid was improperly rejected as nonresponsive where award properly was made to the low bidder, since protester would not be in line for award even if its protest were sustained.

PROCUREMENT

B-229968 March 21, 1988

Bid Protests

88-1 CPD 293

GAO Procedures

Protest Timeliness

Significant Issue Exemptions

Applicability

An untimely protest will not be considered under the significant issue exception to the bid protest timeliness rules since the issue raised is not of widespread interest to the procurement community.

PROCUREMENT

Bid Protests

GAO Procedures

Protest Timeliness

10-Day Rule

Protest is untimely where not filed until more than 1 month after protester received information from contracting agency pursuant to Freedom of Information Act which put protester on notice of grounds of protest.

PROCUREMENT
Special Procurement
Methods/Categories
Multi-Year Leases
Use
Communications Systems/Services
Telephones

B-227850.2 March 22, 1988
88-1 CPD 294

Agency is not precluded by statute from employing options to synchronize the expected lives of leased and purchased systems to provide a common basis for evaluation. Further, such basis would be more accurate than adding a residual value factor to a base offer, since it would be based on actual expected costs instead of the assumptions attendant to a residual factor analysis. Agency could, however, consider the flexibility and control provided through an ownership arrangement as part of the technical evaluation.

PROCUREMENT
Specifications
Minimum Needs Standards
Competitive Restrictions
Geographic Restrictions
Justification

Conclusion that requirement for single contract covering two Bell Operating Company (BOC) regions unduly excluded BOCs from competition is affirmed on reconsideration. Inability of BOCs to provide utility service outside of their respective regions is a simple fact of telecommunications marketplace, and evidence submitted in support of request for reconsideration does not establish that prior decision was in error in finding lack of justification for single contract requirement.

PROCUREMENT

Bid Protests

GAO Procedures

Protest Timeliness

10-Day Rule

B-229683 March 22, 1988

88-1 CPD 295

Protest filed more than 10 working days after the protester was aware of the basis for protest is untimely.

PROCUREMENT

Competitive Negotiation

Contract Awards

Administrative Discretion

Cost/Technical Tradeoffs

Cost Savings

Where the solicitation states that the agency reserves the right to award to the offeror whose "first article," contracted separately, has passed testing, provided that award is most advantageous to the government, price and other factors considered, an award to the low offeror whose article was approved is proper.

PROCUREMENT

Contract Management

Contract Administration

GAO Review

General Accounting Office does not consider protests of contract administration matters as part of its bid protest function.

PROCUREMENT

B-229888; B-229889

Noncompetitive Negotiation

March 22, 1988

Industrial Mobilization

88-1 CPD 296

Bases

Competitive Restrictions

Administrative Discretion

In procurements conducted under provisions of the Competition in Contracting Act of 1984 pertaining to mobilization base producers, the usual concern for obtaining full and free competition is subject to the needs of industrial mobilization. Agencies properly may exclude a particular source or restrict a procurement to predetermined sources in order to create or maintain their readiness to produce critical supplies in case of a national emergency or to achieve industrial mobilization.

Procuring agency's decision to exclude the protester from competing for two industrial mobilization base contracts in order to develop additional sources of supply is proper where the protester has held every contract for the solicited item since 1979 and currently has production requirements into 1989.

PROCUREMENT

B-227116.2 March 23, 1988

Socio-Economic Policies

88-1 CPD 297

Labor Standards

Supply Contracts

Manufacturers/Dealers

Determination

Small business bidder's status as a regular dealer or manufacturer under the Walsh-Healey Public Contracts Act is not a matter of bid responsiveness, but of bidder eligibility, and is reviewable by the Small Business Administration and the Secretary of Labor, not the General Accounting Office.

PROCUREMENT

Socio-Economic Policies

Small Businesses

Responsibility

Negative Determination

GAO Review

Solicitation provision requiring that the bidder's steel fabricator "should" have been continuously engaged for 2 years in the fabrication of structural steel, and "shall" furnish experience information with respect to towers not less than 600 feet high, is a definitive responsibility criterion. Small business bidder's failure to meet the criterion thus renders the firm nonresponsible, and the matter must be referred to the Small Business Administration under the certificate of competency procedures.

PROCUREMENT B-227116.2 Con't
Socio-Economic Policies March 23, 1988
Small Businesses
Size Determination
GAO Review

The General Accounting Office will not consider a challenge to the Small Business Administration's (SBA) determination that a bidder is a small business concern since by statute the SBA has conclusive jurisdiction in such matters.

PROCUREMENT B-227179 March 23, 1988
Payment/Discharge 88-1 CPD
Shipment Costs
Additional Costs
Evidence Sufficiency

Government shippers orally requested dromedary service on numerous shipments and annotated the Government Bills of Lading (GBLs) with dromedary rate tender references. The carrier transported the shipments in larger closed vans for its own convenience because smaller dromedary equipment was not available, but it billed and was paid on the basis of the dromedary rates. Subsequently the carrier submitted supplemental bills based on higher van service rates on the basis that the GBLs showed that van service was provided and the GBLs did not contain an annotation of the request for dromedary service as required by the dromedary tenders. The total circumstances show that shippers and carrier understood that dromedary service was requested as evidenced by the dromedary tenders noted on the GBLs (which in these circumstances satisfies the tenders' requirement for annotation of the request) and the carrier's billing on that basis. At the least there was an ambiguity on the GBLs which would have required the carrier, if it was in doubt, to inquire about the service desired. Accordingly, the General Services Administration's disallowance of the carrier's supplemental bills is sustained.

PROCUREMENT
Bid Protests
GAO Procedures
Preparation Costs

B-229838 March 23, 1988
88-1 CPD _____

Protest is sustained where agency misevaluated offers and awarded a contract to other than the low offeror, and the protester is awarded the costs of filing and pursuing its protest and its proposal preparation costs.

PROCUREMENT
Competitive Negotiation
Offers
Evaluation Errors
Prices

Protest is sustained where agency misevaluated offers and awarded a contract to other than the low offeror, and the protester is awarded the costs of filing and pursuing its protest and its proposal preparation costs.

PROCUREMENT
Competitive Negotiation
Offers
Preparation Costs

Protest is sustained where agency misevaluated offers and awarded a contract to other than the low offeror, and the protester is awarded the costs of filing and pursuing its protest and its proposal preparation costs.

PROCUREMENT

B-229920.2 March 23, 1988

Bid Protests

88-1 CPD 301

GAO Procedures

Purposes

Competition Enhancement

A protester's interest as a beneficiary of more restrictive specifications is not protectable under the General Accounting Office's bid protest function, which is to ensure that the statutory requirement for full and open competition has been met.

PROCUREMENT

Competitive Negotiation

Requests for Proposals

Cancellation

Justification

Competition Enhancement

Cancellation of a brand name or equal request for proposals (RFP) after receipt of proposals is proper where the RFP lists salient characteristics that exceeded the actual needs of the government and the agency determines that resolicitation under relaxed specifications to enhance competition is in the best interest of the government.

PROCUREMENT

B-230209 March 23, 1988

Bid Protests

88-1 CPD 302

GAO Procedures

Protest Timeliness

Apparent Solicitation Improprieties

Protest questioning the propriety of the two-step sealed bidding method of procurement is untimely where the basis of the protest was evident from the face of the solicitation and was not raised until after the closing date for receipt of bids under step two.

PROCUREMENT
Bid Protests
GAO Procedures
Protest Timeliness
10-Day Rule

B-230209 Con't
March 23, 1988

Protester's allegations that short delivery schedule provided in solicitation was necessitated by agency's poor advance procurement planning and that agency otherwise mishandled procurement are untimely where they were filed more than 10 days after the bases of protests were known or should have been known to the protester.

PROCUREMENT
Specifications
Minimum Needs Standards
Competitive Restrictions
Allegation Substantiation
Evidence Sufficiency

Protest that delivery requirements are impossible to attain for any bidder but the incumbent, and therefore unduly restrict competition, is denied where agency presents a reasonable explanation in support of the delivery requirements as necessary to meet its minimum needs and protester fails to show that those requirements are clearly unreasonable.

PROCUREMENT
Socio-Economic Policies
Small Businesses
Contract Awards
Eligibility

B-230628 March 23, 1988
88-1 CPD 303

A small business, to be eligible for award of a contract that is set aside for small business, must perform at least 50 percent of the cost of the contract with its own employees if a contract for services (except construction) is involved or must perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials, if a supply contract is to be awarded.

PROCUREMENT **B-229748** **March 24, 1988**
Competitive Negotiation **88-1** **CPD** **304**
Offers
Competitive Ranges
Exclusion
Administrative Discretion

Proposal was properly excluded from the competitive range where the record shows that the procuring agency had a reasonable basis for its determinations that the proposal was so deficient in numerous technical areas as to require major revision in order to be considered technically acceptable and that the protester did not meet the stated technical experience requirements.

PROCUREMENT **B-229966** **March 24, 1988**
Bid Protests **88-1** **CPD** **305**
GAO Procedures
Protest Timeliness
10-Day Rule

Where protester knew of the basis for its protest--the failure of the agency to solicit the firm--prior to filing a Freedom of Information Act (FOIA) request for information concerning the procurement, protest filed more than 10 working days after the basis of the protest was known, even though within 10 working days of the protester's receipt of information under FOIA, is untimely.

PROCUREMENT **B-224480.6, et al.**
Competitive Negotiation **March 25, 1988**
Offers **88-1** **CPD** **306**
Evaluation
Personnel Experience

Agency determination of the precise extent and cost of training considered necessary to assure safe and efficient operation of cable ships will not be questioned where there is no showing that the requirement is unreasonable.

PROCUREMENT

**Special Procurement
Methods/Categories**

In-House Performance

Cost Estimates

Contract Administration

Personnel

B-224480.6, et al. Con't

March 25, 1988

Agency properly excluded from in-house cost estimate the cost of support personnel whose positions would not be eliminated if a contract were awarded; cost comparison procedures require inclusion in estimate only costs for positions that would be eliminated.

PROCUREMENT

Special Procurement Methods/Categories

In-House Performance

Evaluation Criteria

Cost Estimates

Agency's cost of preparing the solicitation and most efficient organization study is not part of the cost of in-house performance for purposes of Office of Management and Budget Circular A-76 cost comparison; the costs are incurred prior to the contemplated contract period for services not included in the solicitation's performance work statement.

PROCUREMENT

B-226246 March 25, 1988

Payment/Discharge

88-1 CPD

Shipment Costs

Overcharge

Payment Deductions

Propriety

A carrier argues that the General Services Administration's (GSA) audit action is improper where GSA applied rates from a rate tender issued by a specific division of the carrier to shipments tendered to the carrier but not to the specific division. GSA's audit action is sustained since the tender did not show a clear and unambiguous intent to restrict its application only to shipments tendered to the specific division. Also, the carrier's argument that the tender does not apply because it was actually issued by a separate corporation with the same name as the carrier's operating division is not accepted. The tender specifically states it was issued by the carrier's division operating under the carrier's Interstate Commerce Commission authority.

PROCUREMENT

B-229812, et al.

Bid Protests

March 25, 1988

GAO Procedures

88-1 CPD 307

Protest Timeliness

10-Day Rule

Protests that solicitations issued by contracting agency conflict with protester's mandatory requirements contract are untimely when filed after closing dates and months after publication of requirements in the Commerce Business Daily.

PROCUREMENT
Bid Protests
Moot Allegation
GAO Review

B-229812, et al. Con't
March 25, 1988

Protests that solicitations should be canceled are rendered academic by contracting agency's cancellation of these solicitations.

PROCUREMENT
Sealed Bidding
Bids
Responsiveness
Brand Name/Equal Specifications
Salient Characteristics

B-229897 March 25, 1988
88-1 CPD 308

A bid proposing an "or equal" system under brand name or equal invitation for bids is nonresponsive where the descriptive literature submitted with the bid fails to establish that the system would meet all of the listed solicitation requirements.

PROCUREMENT
Sealed Bidding
Bids
Minor Deviations
Government Advantage
Acceptability

B-229931 March 25, 1988
88-1 CPD 309

A bidder's failure to furnish evidence showing any affiliation is a minor informality which may be waived or cured after bid opening because the information does not affect the responsiveness of the bid.

PROCUREMENT**B-229932 March 25, 1988****Bid Protests****88-1 CPD 310****GAO Procedures****Interested Parties**

Under solicitation calling for award of firm fixed-price contract, protester whose price was not second low nevertheless is an interested party to challenge contracting agency's alleged waiver of material specifications by accepting nonconforming low offer since, if the protest is sustained, protester could have opportunity to submit new proposal.

PROCUREMENT**Competitive Negotiation****Offers****Evaluation****Technical Acceptability****Equivalent Products**

Protest in negotiated brand name or equal procurement that agency improperly made award to firm whose proposal did not meet certain salient characteristics is denied where protester does not demonstrate that agency's technical judgment that awardee's proposal meets the salient characteristics is unreasonable.

PROCUREMENT**B-229947; B-229947.2****Sealed Bidding****March 25, 1988****Invitations for Bids****88-1 CPD 311****Cancellation****Justification****Funding Restrictions**

Cancellation of invitation for bids is not legally objectionable where agency determines after bid opening that sufficient funds were not available to make award to the low responsive bidder.

PROCUREMENT

B-229947; B-229947.2 Con't

Sealed Bidding

March 25, 1988

Invitations for Bids

Cancellation

Resolicitation

Requests for Proposals

Cancellation of invitation for bids (IFB) after bid opening does not result in impermissible auction, even though protester's bid prices have been disclosed and acquisition is to be completed through negotiation, where IFB was canceled due to unreasonable bid prices.

PROCUREMENT

Sealed Bidding

Invitations for Bids

Post-Bid Opening Cancellation

Justification

Price Reasonableness

Contracting officer's decision to cancel invitation for bids based on unreasonableness of bid prices was proper where low bid exceeded government estimate by more than 10 percent and there is not an allegation that decision to cancel was based on bad faith or fraud on the part of contracting officials. The General Accounting Office has upheld rejection of bids where the lowest eligible bid exceeded the government estimate by as little as 7.2 percent.

Cancellation of invitation for bids (IFB) after bid opening does not result in impermissible auction, even though protester's bid prices have been disclosed and acquisition is to be completed through negotiation, where IFB was canceled due to unreasonable bid prices.

PROCUREMENT

Bid Protests

GAO Procedures

Protest Timeliness

Apparent Solicitation Improprieties

B-230012 March 28, 1988

88-1 CPD 314

PROCUREMENT

Bid Protests

GAO Procedures

Protest Timeliness

10-Day Rule

Protest after award that specifications were unjustifiably restrictive is untimely, regardless of whether the protester's pre-closing date letter to the agency questioning specifications is considered a protest. If the letter is not considered a protest, then the protester failed to protest apparent solicitation improprieties before the closing date for receipt of proposals, as required by Bid Protest Regulations. Alternatively, if the letter is considered a protest, then the protester failed to protest to the General Accounting Office within 10 working days of initial adverse agency action--receipt of proposals--as further required under the protest regulations.

PROCUREMENT

Bid Protests

Non-Appropriated Funds

GAO Review

Where the protester's nonconforming proposal could not have been accepted, allegations of improper evaluation and violation of the Buy American Act did not prejudice the firm and therefore will not be considered.

PROCUREMENT
Bid Protests
GAO Procedures
Preparation Costs

B-227106.8 March 29, 1988
88-1 CPD 315

Protester may not recover the costs of filing and pursuing a bid protest where the protest has been sustained and the remedy afforded the protester is the opportunity to submit a revised proposal in reopened negotiations, which will be reevaluated on the basis of relaxed requirements, since the initial unreasonable exclusion of the protester's proposal has been corrected. 65 Comp. Gen. 490, distinguished.

PROCUREMENT
Bid Protests
GAO Procedures
Interested Parties

B-229642 March 29, 1988
88-1 CPD 316

Unacceptable offeror is an interested party under the Bid Protest Regulations to protest that only other offeror's proposal should not have been accepted under a request for proposals.

PROCUREMENT
Contractor Qualification
Licenses
Determination Time Periods

Request for proposals (RFP) requirement that contractor's employees have a particular license is not a definitive responsibility criterion, where the RFP does not indicate that the license must be obtained prior to award and does not require offerors to identify the employees in their proposals.

PROCUREMENT

B-229883 March 29, 1988

Competitive Negotiation

88-1 CPD 317

Source Selection Boards

Contract Awards

Withdrawal

The Under Secretary of the Army has the authority to review, vacate, and make source selection decisions under a procurement using formal source selection procedures under Federal Acquisition Regulation, even where a lower source selection authority has made a contrary selection.

The Under Secretary of the Army's decision to vacate a lower echelon source selection authority's selection of the protester for award and instead select a technically superior offeror was reasonable and in accordance with the evaluation criteria of the solicitation.

PROCUREMENT

B-229606.2 March 30, 1988

Contractor Qualification

88-1 CPD 320

Responsibility

Contracting Officer Findings

Negative Determination

GAO Review

A prospective contractor who fails to obtain a security clearance mandated by a solicitation is properly found to be nonresponsible.

The fact that a prospective contractor has insufficient time to obtain a security clearance before the award of the contract does not constitute grounds for disturbing the agency's finding of nonresponsibility.

PROCUREMENT B-229664 Con't
Competitive Negotiation March 30, 1988
Technical Transfusion/Leveling
Allegation Substantiation
Evidence Sufficiency

Protest that the agency engaged in technical leveling is denied where there is no evidence that agency personnel gave any improper help to the awardee to bring its proposal up to a higher technical level.

PROCUREMENT B-230263 March 30, 1988
Bid Protests 88-1 CPD 323
Subcontracts
GAO Review

The General Accounting Office will not review the award of a subcontract by a Small Business Administration 8(a) subcontractor where it is not shown that the 8(a) subcontractor was acting as the government's agent in the procurement.

PROCUREMENT B-227079.3 March 31, 1988
Competitive Negotiation 88-1 CPD 324
Contract Awards
Administrative Discretion
Cost/Technical Tradeoffs
Technical Superiority

General Accounting Office's review does not show that the agency determination that the awardee's technical proposal was significantly stronger than the protester's technical proposal, lacked a reasonable basis, or was unrelated to the evaluation criteria. The contracting officer's award selection was reasonably based upon a price/technical tradeoff analysis where he determined the awardee's significant advantage in the technical criteria, which constituted 75 percent of the evaluation weight, outweighed the protester's price advantage.

PROCUREMENT B-230171.15 March 31, 1988
Bid Protests 88-1 CPD 325
GAO Procedures
Preparation Costs

Request for reconsideration of protest originally dismissed as untimely is denied where protester does not allege that original protest was timely, but only incorrectly infers that General Accounting Office has decided to consider other protests filed in connection with same solicitation that are untimely.

PROCUREMENT B-230202 March 31, 1988
Special Procurement 88-1 CPD _____
Methods/Categories
Federal Procurement Regulations/Laws
Amendments
Service Contracts
Liability Insurance

The General Accounting Office has no objections to proposed amendments to Federal Acquisition Regulation (FAR) Parts 28, 37 and 52, prescribing a clause which requires health care providers under government contracts to maintain medical liability insurance and to indemnify the government against liability-producing acts or omissions. The proposal also specifies that such contractors will act as "independent contractors."

PROCUREMENT B-230243 March 31, 1988
Payment/Discharge 88-1 CPD _____
Federal Procurement Regulations/Laws
Amendments
Contractor Debts

General Accounting Office has no objection to proposed amendments to Federal Acquisition Regulation (FAR) Parts 32 and 33, which would provide that final decisions of the contracting officer relating to unilaterally determined debts shall include demands for payment and that no demands shall issue before the final decision.

PROCUREMENT
Bid Protests
GAO Procedures
Protest Timeliness
10-Day Rule

B-230596 March 31, 1988
88-1 CPD

Where protester's contention that requirement for maintenance services would have to be resolicited rather than included within another contract was rejected and protester was simultaneously informed its contract would be terminated, its protest filed more than 10 days after such notice is untimely.

PROCUREMENT
Bid Protests
GAO Procedures
Protest Timeliness
Apparent Solicitation Improprieties

B-230701 March 31, 1988
88-1 CPD 326

Protest against alleged solicitation impropriety is untimely when filed after the closing date for receipt of initial proposals.

MISCELLANEOUS TOPICS

MISCELLANEOUS TOPICS **B-133192** **March 14, 1988**
Environment/Energy/Natural Resources
Hazardous Substances
Environmental Protection
Liability

Under federal environmental statutes, the potential exists for farmers who have properly applied a pesticide to be required to undertake abatement-type actions, and incur the expenses thereof, in an emergency situation. See 42 U.S.C. §§ 300i, 6973, 9606.

MISCELLANEOUS TOPICS **B-229651.2** **March 31, 1988**
Federal Administrative/Legislative Matters
Administrative Policies
Records Destruction
Time Restrictions

Where 1-year retention period of inactive Supplemental Security Income Claims Folders previously approved by this Office is now deemed inadequate for audit purposes, it is appropriate for this Office to request extension of retention period to meet our audit requirements.

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