

GAO

Office of General Counsel



980

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Unpublished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

United States General Accounting Office

Charles A. Bowsher

Comptroller General of the United States

Milton J. Socolar

Special Assistant to the Comptroller General

James F. Hinchman

General Counsel

Vacant

Deputy General Counsel

Contents

	<u>Page</u>
Table of Decisions	I
Digests:	
Appropriations/Financial Management	A-1
Civilian Personnel	B-1
Military Personnel	C-1
Procurement	D-1
Miscellaneous Topics	E-1
Index	i

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This publication is one in a series of monthly pamphlets entitled "Digests of Unpublished Decisions of the Comptroller General of the United States" which have been published since the establishment of the General Accounting Office by the Budget and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).

For:

Telephone research service regarding Comptroller
General decisions: (202) 275-5028

Information on pending decisions: (202) 275-5436

Copies of decisions: (202) 275-6241

Request to be placed on mailing lists for GAO
Publications: (202) 275-4501

Questions regarding this publication: (202)
275-5742

TABLE OF DECISIONS

JUNE 1989

	<u>June</u>	<u>Page</u>		<u>June</u>	<u>Page</u>
B-197911.5	22...	D-35	B-233702.2	23...	D-41
B-198713.3	9...	A- 2	B-233727.2	9...	D-12
B-208593.7	29...	E- 1	B-233827	2...	B- 2
B-223678	5...	A- 1	B-233836	13...	B- 2
B-226937.3	22...	B- 4	B-233853.2	9...	D-13
B-226941.4	15...	D-21	B-234063.4	29...	D-46
B-229831.8	21...	D-33	B-234074.2	6...	D- 7
B-230309.7)			B-234141.7	30...	D-48
B-230309.8)	6...	D- 6	B-234144.2	8...	D- 9
B-230338.2	2...	B- 1	B-234199.2)		
B-230345	2...	D- 2	B-234856)	13...	D-17
B-231120.2	23...	B- 5	B-234222.2	22...	D-36
B-231498	21...	C- 3	B-234308	2...	D- 3
B-231519	23...	D-40	B-234346	26...	B- 7
B-231567	7...	C- 1	B-234368	8...	D-10
B-231885.2	2...	D- 3	B-234379	9...	D-14
B-232165	14...	A- 3	B-234383	5...	D- 4
B-232200.2	23...	D-41	B-234434	7...	D- 8
B-232291.3	28...	D-46	B-234444)		
B-232480	2...	B- 1	B-234974)	29...	D-46
B-232500.5	15...	D-22	B-234465	15...	D-23
B-232562.3)			B-234467	20...	D-29
B-232562.4)	12...	D-14	B-234485)		
B-232681.5	27...	D-44	B-234486)	1...	D- 1
B-232694.2,			B-234509	16...	D-24
et al.)	13...	D-16	B-234521	20...	D-30
B-232958.2	1...	D- 1	B-234555	13...	D-17
B-233100.2	22...	D-36	B-234559)		
B-233131	22...	B- 5	B-234559.2)	26...	D-43
B-233224.2	12...	D-15	B-234591)		
B-233389	23...	B- 6	B-234593)	20...	D-30
B-233439.2	30...	D-48	B-234597)		
B-233640	28...	A- 3	B-234597.2)	16...	D-24
B-233656	19...	B- 3	B-234613	7...	D- 9
B-233695.2	12...	D-16	B-234617	29...	D-47

TABLE OF DECISIONS - CON.

	<u>June</u>	<u>Page</u>		<u>June</u>	<u>Page</u>
B-234628.2	5...	D- 5	B-235049	21...	D-34
B-234650	22...	D-38	B-235056	16...	D-27
B-234651.2	13...	D-18	B-235123)		
B-234660	22...	D-38	B-235164)	20...	D-32
B-234668	30...	D-49	B-235239	22...	D-40
B-234671.2	13...	D-18	B-235262	9...	C- 2
B-234679	23...	D-41	B-235323.2)		
B-234689	8...	D-10	B-235323.3)	23...	D-42
B-234710	29...	D-47	B-235437	5...	D- 6
B-234711	15...	D-23	B-235456	14...	D-21
B-234716.3	8...	D-11	B-235473	9...	D-14
B-234723)	6...	D- 7	B-235477.2	7...	D- 9
B-234724)	6...	D- 7	B-235478.2	23...	D-43
B-234730	8...	D-12	B-235480	26...	D-44
B-234731	19...	B- 4	B-235501	23...	C- 3
B-234749	22...	D-39	B-235523	20...	D-32
B-234816)			B-235527	23...	D-43
B-234829)	16...	D-25	B-235607.2	30...	D-50
B-234842	16...	D-26	B-235703	19...	D-28
B-234855	14...	D-20	B-235704.2	29...	D-48
B-234859	13...	D-19	B-235749.1	8...	A- 2
B-234867	20...	D-31	B-235773	26...	D-44
B-234927	19...	D-27	B-235791	19...	D-28
B-234991	13...	D-20	B-235808	20...	D-33
B-235006	21...	D-34	B-235813	19...	D-28
B-235023	16...	D-26			

APPROPRIATIONS/FINANCIAL MANAGEMENT

APPROPRIATIONS/FINANCIAL MANAGEMENT

Appropriation Availability **B-223678 June 5, 1989**

Purpose availability

Business cards

The Office of U.S. Trade Representative (USTR) may use its R&R funds to purchase business cards for staff members whose jobs include official representation. However, prior to making the latter expenditure, USTR should seek clarification of the Government Printing and Binding Regulations from the Joint Committee on Printing.

APPROPRIATIONS/FINANCIAL MANAGEMENT

Appropriation Availability

Purpose availability

Specific purpose restrictions

Entertainment/recreation

The purpose of the appropriation for "official reception and representation" (R&R) is to permit certain expenditures primarily in the nature of "entertainment" which generally are not permissible under normal operating appropriations. However, the R&R appropriation is available only to defray costs of "official reception[s]," not costs of business meetings involving the United States Trade Representative and other federal employees.

APPROPRIATIONS/FINANCIAL MANAGEMENT

Claims Against Government B-235749.1 June 8, 1989
Documentation procedures
Facsimile signatures
Acceptability

The GGD Claims Group is advised that documentation presented over a legible facsimile of the signature of a claimant satisfies the requirement of 31 U.S.C. § 3702(b)(1) that a claims against the government must contain the "signature" of the claimant. Therefore, claims may be adjudicated on the basis of facsimile signatures.

APPROPRIATIONS/FINANCIAL MANAGEMENT

Claims Against Government B-198713.3 June 9, 1989
Statutes of limitation
Administrative regulations
Modification

The Barring Act, 31 U.S.C. § 3702(b), provides that, with limited exceptions, claims against the government within the jurisdiction of the GAO must be received by the Comptroller General within 6 years after the claim accrues or be forever barred. The GAO's claims regulations in 4 C.F.R. Part 31 are amended to permit this statute of limitations to be satisfied if a claim is timely filed with the agency whose activities gave rise to it. The amendment to 4 C.F.R. Part 31 is in the form of an interim rule which is effective upon the date of publication in the Federal Register.

APPROPRIATIONS/FINANCIAL MANAGEMENT

Appropriation Availability B-232165 June 14, 1989

Purpose availability

Representational funds

Foreign service personnel

Entertainment/recreation

Representational funds may be used to reimburse Foreign Service Officers assigned overseas for civic club meal expenses incurred in connection with their official duties, provided the Chief of Mission approves such expenditures in accordance with applicable State Department Regulations.

APPROPRIATIONS/FINANCIAL MANAGEMENT

Claims by Government B-233640 June 28, 1989

Overpayments

Blanket waiver

Commander, Navy Finance Center, is advised of our general policy against granting "blanket" waivers under the provisions of 5 U.S.C. § 5584. Other alternatives are available such as suspending collection of a claim when the cost of collecting it is likely to be more than the amount recovered. Further action should be delayed until the new system is in place.

CIVILIAN PERSONNEL

CIVILIAN PERSONNEL

B-230338.2 June 2, 1989

Relocation

Expenses

Liability

Breach of service agreements

Upon reconsideration we affirm our prior decision that an employee, who transferred to a new duty station but failed to complete her 12-month service agreement, must repay the relocation expenses she was reimbursed. The service agreement is required by statute in order to authorize the payment of relocation expenses, and the agency was not arbitrary or capricious in demanding repayment.

CIVILIAN PERSONNEL

B-232480 June 2, 1989

Compensation

Overpayments

Error detection

Debt collection

Waiver

By failing to properly reduce a lump-sum overtime award, the Air Force erroneously overpaid one of its employees. Waiver is granted because the erroneous overpayment was compounded by subsequent confusion resulting in a 6-month delay in seeking its collection. Furthermore, the record does not establish knowledge sufficient to support a finding of fraud, misrepresentation or lack of good faith on the part of the employee.

CIVILIAN PERSONNEL**B-233827 June 2, 1989****Travel****Advances****Debt collection****Waiver****New appointment**

A newly hired, nonshortage category employee erroneously was issued travel orders and a travel advance for her personal travel by private automobile and shipment of her household goods under the commuted rate system to her duty station. After the employee incurred relocation expenses in good faith reliance on the orders, the agency discovered the error and recommended waiver of the employee's debt. Waiver is granted; however, it is limited to an amount based on expenses the employee actually incurred, which in this case is the mileage allowance for the expense of her personal travel and the amount she actually paid for transportation of her household goods, not the greater amount computed under the commuted rate system.

CIVILIAN PERSONNEL**B-233836 June 13, 1989****Compensation****Retroactive compensation****Adverse personnel actions****Reimbursement****Insurance premiums**

A reinstated employee who is eligible for backpay under 5 U.S.C. § 5596 as a result of an improper personnel action may not be reimbursed for medical insurance premiums incurred in the period of the wrongful dismissal.

CIVILIAN PERSONNEL

B-233836 Con't

Relocation

June 13, 1989

Actual expenses

Eligibility

Adverse personnel actions

Reinstatement

Neither the Back Pay Act, 5 U.S.C. § 5596, nor the implementing regulations in 5 C.F.R. § 550.801 et seq. (1987) authorize consequential relocation and moving expenses when an erroneously separated employee is reinstated. Such expenses do not represent benefits an employee would have received had the personnel action not occurred.

CIVILIAN PERSONNEL

B-233656 June 19, 1989

Leaves of Absence

Administrative leave

Eligibility

Intermittent employment

Furloughs

Intermittent employees who were furloughed for 4 hours on October 17, 1986, due to a lapse in appropriations are entitled to be compensated for the period during which the lapse occurred. See H.J. Res. 754, Oct. 27, 1986.

Intermittent employees who were furloughed for 3-1/4 hours due to an emergency shutdown of the office (waterline break) claim compensation for the period during which the shutdown occurred. Evidence shows that the employees were at work and had ample work to complete a normal workday. Under these circumstances, the agency may grant them administrative leave and may compensate them in same manner as all other employees who were sent home.

CIVILIAN PERSONNEL

B-234731 June 19, 1989

Compensation**Overpayments****Error detection****Debt collection****Waiver**

Waiver of an employee's debt is denied where the employee was aware that he was being overpaid after receiving duplicate salary payments from his old and new duty stations. Although the employee immediately notified the agency of the error and the overpayments continued after notification, waiver is not appropriate because when the employee is aware of an error, the employee cannot reasonably expect to retain the overpayments. The amount the employee is obligated for includes both the amounts he received directly and other amounts paid on his behalf such as for insurance, retirement and taxes.

CIVILIAN PERSONNEL

B-226937.3 June 22, 1989

Relocation**Temporary quarters****Actual subsistence expenses****Dependents****Eligibility**

Agency authorized 60 days temporary quarters subsistence expenses (TQSE) for transferred employee, his wife, and four children including two by prior marriage. After employee reported at new duty station, wife and four children entered temporary quarters at old station. Agency denied TQSE for two children of prior marriage because they did not join employee at new duty station following 60-day temporary quarters period. Employee's claim for their expenses is allowed because they were members of his household when he reported at new duty station and remained so for full 60 days. Their subsequent failure to join him at new duty station does not defeat his entitlement to authorized TQSE. See Federal Travel Regulations, paragraphs 2-1.4d and 2-5.2c.

CIVILIAN PERSONNEL

B-233131 June 22, 1989

**Compensation
Retroactive compensation
Eligibility
Details**

Employee's claim for a retroactive temporary promotion and backpay incident to an overlong detail is denied pursuant to Turner-Caldwell III, 61 Comp. Gen. 408 (1982). An exception to the Turner-Caldwell III rule exists where a collective bargaining agreement prescribes temporary promotions in the case of overlong details to higher grade positions; however, the employee's claim does not fall within this exception since he had not been detailed to a higher grade position.

CIVILIAN PERSONNEL

B-231120.2 June 23, 1989

**Relocation
Household goods
Advance payments
Liability
Waiver**

An employee, who was appointed to a manpower shortage position, seeks waiver of a debt arising from excess insurance which he obtained on his household goods shipment. An employee may be granted waiver in such case if the agency provided the employee with erroneous information and he acted in reliance thereon to his financial detriment. Since there is no showing here that erroneous information was provided him by the agency, waiver is denied. Cf. Paul Rodriguez, 67 Comp. Gen. 589 (1988).

CIVILIAN PERSONNEL

B-233389 June 23, 1989

**Compensation
Overtime
Eligibility
Advance approval**

An employee while in a travel status claims overtime compensation since another employee who allegedly worked the same hours received that pay. Overtime under 5 U.S.C. § 5542 is only payable when it is ordered, approved in writing, or induced by an official with authority to order or approve such overtime. In the absence of documentation showing such approval in the employee's case, overtime compensation may not be paid.

CIVILIAN PERSONNEL

**Travel
Temporary duty
Per diem
Additional expenses
Rest periods**

An employee performed temporary duty travel to Saudi Arabia in 1981, and received limited per diem based on footnote 13 of Appendix A, Volume 2, Joint Travel Regulations. He claims additional per diem arguing that his situation was not addressed in that footnote, but was addressed in later changes to that footnote. The claim is denied because the regulation was applicable and was correctly applied. Subsequent changes in regulations made after his travel was completed do not affect his entitlements.

CIVILIAN PERSONNEL

B-233389 Con't

Travel

June 23, 1989

Temporary duty**Per diem****Additional expenses****Rest periods**

The travel orders of an employee who performed overseas temporary duty travel specified a 1-day rest stop in London outbound and permitted 2 days layover in Rome on the return trip. He claims per diem for the additional day in Rome based on those orders. The claim is denied. Under paragraph C4464-4 of Volume 2, Joint Travel Regulations, then in effect, rest stops of "a reasonable period" may be approved. The 1 day allowed as a rest stop on the outbound journey established it as a reasonable period for per diem purposes. The second day on the return trip was authorized to be taken as a matter of personal convenience to the traveler, not as a rest stop day.

CIVILIAN PERSONNEL

B-234346 June 26, 1989

Travel**Permanent duty stations****Actual subsistence expenses****Prohibition**

Per diem was denied to employees who were temporarily assigned as examiners and observers under the Voting Rights Act and who stayed at a motel at or near their permanent duty station. The Federal Travel Regulations expressly prohibit employees from receiving per diem at their permanent duty stations. Where the temporary duty station is outside, but within a short distance of, the permanent duty station, the agency has discretion to determine whether per diem should be authorized.

MILITARY PERSONNEL

MILITARY PERSONNEL

B-231567 June 7, 1989

Travel

Advances

Overpayments

Debt collection

Waiver

Air Force member whose travel advance exceeded his travel entitlements because of failure of Air Force to specify in travel order that member's mileage reimbursement for using his privately owned vehicle would be limited to cost of travel under a military transportation request may have resulting debt waived under the authority of 10 U.S.C. § 2774 as a result of his detrimental reliance on erroneous travel order.

MILITARY PERSONNEL

B-235262 June 9, 1989

Relocation**Household goods****Shipment****Travel regulations****Amendments**

The general rule that household goods acquired en route to or after arrival at a new duty station cannot be shipped at government expense has long applied to civilian employees and service members. Staff Sergeant Mitchel G. Brannon, USAF, B-229189, Dec. 9, 1988, 69 Comp. Gen. _____, approved a request of the uniformed services to amend the Joint Federal Travel Regulations to provide an exception to the general rule where the after-acquired household goods are a replacement shipment for those goods which were lost or destroyed in transit. The basis for the exception was that there is broad statutory authority for the transportation of household goods in connection with uniformed service members' changes of duty stations, and it contemplates delivery of the goods in usable condition. Since the statutory entitlement of federal civilian employees' transportation of household goods in connection with a transfer provides similar broad authorization and also contemplates delivery of household goods in usable condition, the exception also applies to civilian employees for replacement shipments for goods lost or destroyed in transit. The General Accounting Office suggests to the Acting Administrator of General Services that the Federal Travel Regulations be amended to reflect the exception.

MILITARY PERSONNEL

B-231498 June 21, 1989

Pay

Retired personnel

Foreign employment

MILITARY PERSONNEL

Pay

Retirement pay

Overpayments

Debt collection

Waiver

Although not entirely clear, it appears from the record that a corporation employing a retired Air Force officer was owned by a foreign government thereby triggering the requirement of 37 U.S.C. § 908 that secretarial approval for employment be obtained. In view of the uncertainty concerning foreign ownership of the corporation when the retired officer was employed by the corporation and the good faith actions of the officer in seeking approval of the employment, any payments of retired pay which may have been erroneous under the terms of the statute may be waived under 10 U.S.C. § 2774.

MILITARY PERSONNEL

B-235501 June 23, 1989

Pay

Retirement pay

Overpayments

Debt collection

Waiver

A retired regular officer of the Navy who received erroneous payments of retired pay because of administrative error by government employees in not reporting his civilian employment to the Navy may be granted waiver of his debt under 10 U.S.C. § 2774, since he asked on at least two occasions and was assured that his employment had been reported and consistent with his understanding of the law had no reason to suspect he was being overpaid.

PROCUREMENT

PROCUREMENT

B-232958.2 June 1, 1989

Bid Protests

89-1 CPD 541

GAO procedures

GAO decisions

Reconsideration

Request for reconsideration of prior dismissal as untimely of protest objecting to agency's decision to procure services competitively is denied notwithstanding protester's contention that it lacked actual notice of the competition, since protester had actual knowledge that previous procurements were competitive and nothing in the record shows that the protested solicitation differs from the prior solicitations, and notice of the procurement was published in the Commerce Business Daily without any indication that procurement was to be noncompetitive.

PROCUREMENT

B-234485; B-234486

Contractor Qualification

June 1, 1989

Contractor personnel

Drug control

Federal procurement regulations/laws

Revision

General Accounting Office has no objection to Federal Acquisition Circular 84-43 (Federal Acquisition Regulation (FAR) case No. 88-67), an interim rule that revises FAR Parts 1, 9, 23, and 52 to implement the Drug-Free Workplace Act of 1988, Pub. L. No. 100-690.

PROCUREMENT **B-234485; B-234486 Con't**
Socio-Economic Policies **June 1, 1989**
Small businesses
Competition enhancement
Federal procurement regulations/laws
Revision

The General Accounting Office has no objection to Item I of Federal Acquisition Circular 84-42 (Federal Acquisition Regulation (FAR) case No. 88-67) an interim rule adding a new FAR Subpart 19.10 entitled "Small Business Competitive Demonstration Program," implementing Title VII of the Business Opportunity Development Reform Act of 1988, Pub. L. No. 100-656.

PROCUREMENT **B-230345 June 2, 1989**
Payment/Discharge
Shipment costs
Rate schedules
Interpretation

A carrier disputes the General Services Administration's deduction action with respect to four shipments of class C explosives. The carrier's Freight All Kinds tender refers specifically to a minimum charge as a percentage of a charge stated in one tariff and also states that the tender is governed by a rules tariff which contains a higher minimum-charge basis applicable to class C explosives. The minimum charge specifically referred to by the tender is applicable to shipments thereunder, rather than the minimum charge arrived at indirectly through the rules tariff reference. Thus, GSA's action is sustained.

PROCUREMENT
Bid Protests
GAO decisions
Recommendations
Modification

B-231885.2 June 2, 1989
89-1 CPD 521

PROCUREMENT
Bid Protests
GAO procedures
GAO decisions
Reconsideration

Prior recommendation that contracting agency resolicit its remaining need from the offerors in the competitive range is modified on reconsideration where agency now establishes that limiting the resolicitation to those offerors is not in the best interest of the government.

PROCUREMENT
Competitive Negotiation
Offers
Competitive ranges
Exclusion
Administrative discretion

B-234308 June 2, 1989
89-1 CPD 522

Protest that offer with numerous perceived deficiencies could have been made acceptable during discussions and thus was improperly excluded from the competitive range is denied where, although certain deficiencies might have been relatively easy to correct, the agency reasonably determined that the type and number of deficiencies indicated a lack of understanding of the requirement, and that major revisions would be necessary to assume that an award to the protester would result in acceptable performance.

PROCUREMENT
Sealed Bidding
Contract awards
Propriety

B-234383 June 5, 1989
89-1 CPD 525

Protester's alleged understanding, obtained through a third party, that it would be permitted an opportunity to submit a second best and final offer provides no basis for disturbing the procurement even though no such second opportunity was given where the alleged advice: (1) is contrary to the usual practice of soliciting only one best and final offer; (2) appears to have resulted from a misunderstanding of a statement made by the contracting officer to the third party; and (3) was not communicated directly to the protester by any contracting official.

PROCUREMENT
Sealed Bidding
Invitations for bids
Cancellation
Bids
Price disclosure

Where protester was the only one of three bidders who was eligible for award of contract set aside for Indian-owned firms and its price even as negotiated downward was considered by the contracting agency to be unreasonably high, it was improper for the agency to have disclosed the protester's final negotiated price in a notice advising all bidders of the agency's decision to cancel the solicitation and to resolicit on an unrestricted basis. Nevertheless, protester was not prejudiced by this action since record indicates that at no time was its price competitive with those quoted on the open market.

PROCUREMENT
Sealed Bidding
Invitations for bids
Cancellation
Resolicitation
Propriety

B-234383 Con't
June 5, 1989

Agency decision to cancel invitation for bids set aside for Indian/Alaska Native economic enterprises, and to resolicit requirement on an unrestricted basis, because sole Indian-owned bidder's price was considered unreasonably high, is not unreasonable where it is supported by comparison of bidder's price with government estimate and prices paid under prior year's contract.

PROCUREMENT
Bid Protests
GAO procedures
GAO decisions
Reconsideration

B-234628.2 June 5, 1989
89-1 CPD 526

PROCUREMENT
Socio-Economic Policies
Small business 8(a) subcontracting
Use
Administrative discretion

General Accounting Office will not consider a protest of the decision of an agency to acquire raw material from a manufacturer and supply it to a section 8(a) concern for fabrication into the finished item, where the basic complaint of the protester, who fabricates the finished item but does not manufacture the raw material, concerns the 8(a) set-aside decision, and the protester has not shown fraud or bad faith on the part of government officials.

PROCUREMENT B-235437 June 5, 1989
Socio-Economic Policies 89-1 CPD 527
Small businesses
Responsibility
Competency certification
GAO review

Where a small business concern protests a nonresponsibility determination by a contracting officer and the subsequent refusal of the Small Business Administration (SBA) to issue a certificate of competency to the firm, the General Accounting Office will not review the protest absent a showing of either possible fraud or bad faith on the part of the SBA or that the SBA failed to consider vital information bearing on the firm's responsibility.

PROCUREMENT B-230309.7; B-230309.8
Bid Protests June 6, 1989
GAO procedures 89-1 CPD 528
GAO decisions
Reconsideration

PROCUREMENT
Contractor Qualification
Contractor personnel
GAO review

Pursuant to a General Accounting Office recommendation for corrective action, agency reasonably determined that awardee had not acted improperly in proposing a lead technician who had given its subcontractor permission to use his name. Where the solicitation did not require submission of employment commitments or place restrictions on subcontracting, whether proposed personnel are to work for the prime contractor or the subcontractor is of no consequence.

PROCUREMENT
Sealed Bidding
Bids

B-234074.2 June 6, 1989
89-1 CPD 529

Responsiveness
Brand name/equal specifications
Equivalent products

Bid proposing equal product under brand name or equal invitation for bids for an air compressor and associated equipment is nonresponsive when the bid fails to establish that the product to be supplied will include an air receiver as required in the solicitation specifications.

PROCUREMENT
Contractor Qualification
Responsibility/
responsiveness distinctions

B-234723; B-234724
June 6, 1989
89-1 CPD 530

Agency properly waived awardee's failure to provide information as to its status as a manufacturer, its mistake in the Clean Air and Water certification and an erroneous Qualified Products/List test number in its bid because none of these matters affected the bidder's material obligations under the solicitation and thus were not matters of responsiveness.

PROCUREMENT
Sealed Bidding
Bid guarantees
Responsiveness
Contractors
Identification

Agency rejection of bids as nonresponsive because of uncertainty as to the identity of the actual bidder is proper where bids were submitted by an entity that certified itself as both a joint venture and a corporation, used the Data Universal Numbering System (DUNS) number and employer identification number of a corporation, and referred to a joint venture agreement between two corporations.

PROCUREMENT
Sealed Bidding
Bids

B-234723; B-234724 Con't
June 6, 1989

Minor deviations
Acceptability

Agency properly waived awardee's failure to provide information as to its status as a manufacturer, its mistake in the Clean Air and Water certification and an erroneous Qualified Products/List test number in its bid because none of these matters affected the bidder's material obligations under the solicitation and thus were not matters of responsiveness.

PROCUREMENT
Sealed Bidding
Contract award notification
Procedural defects

Agency's failure to notify unsuccessful bidder promptly after award is a procedural defect that does not affect the validity of the contract award.

PROCUREMENT
Competitive Negotiation
Discussion
Adequacy
Criteria

B-234434 June 7, 1989
89-1 CPD 531

Contracting agency failed to conduct meaningful discussions with offeror under negotiated procurement for a video teleconferencing system where negotiation letter raised only general matters such as equipment/display bays or controller "not adequately addressed" and did not point out specific deficiencies for which evaluators later rejected proposal.

PROCUREMENT B-234613 June 7, 1989
Sealed Bidding 89-1 CPD 532
Bid guarantees
Sureties
Acceptability
Information submission

Rejection of protester's bid was proper where agency reasonably found that protester failed to provide sufficient information to permit finding one of the two required individual sureties on its bid bond acceptable.

PROCUREMENT B-235477.2 June 7, 1989
Bid Protests 89-1 CPD 533
GAO procedures
Protest timeliness
10-day rule
Reconsideration motions

Request for reconsideration of a decision dismissing a protest as untimely is denied where the protester fails to show any error of fact or of law that would warrant reversal or modification.

PROCUREMENT B-234144.2 June 8, 1989
Competitive Negotiation 89-1 CPD 534
Offers
Risks
Pricing

Agency is not obligated to provide precise dollar amount or percentage formula guidance in solicitation to permit an offeror to maximize its price for first article production and testing in order to obtain highest possible early progress payments without incurring the risk of having its offer rejected as unbalanced.

PROCUREMENT **B-234144.2 Con't**
Competitive Negotiation **June 8, 1989**
Use
Criteria

Agency properly used to negotiated procedures rather than sealed bidding procedures where the contracting officer determined that delivery considerations were more important than price and price related factors and the use of negotiated procedures would increase the probability of competition.

PROCUREMENT **B-234368 June 8, 1989**
Competitive Negotiation **89-1 CPD 536**
Competitive advantage
Non-prejudicial allegation

PROCUREMENT
Competitive Negotiation
Contract awards
Propriety

Protest that awardee's proposal did not meet regulatory testing requirements for containers holding flammable solids is denied where the record does not clearly establish that testing requirements were applicable, the awardee's proposal fulfills the government's actual needs, and the protester has not been competitively prejudiced since it did not offer a container complying with the testing requirements.

PROCUREMENT **B-234689 June 8, 1989**
Bid Protests **89-1 CPD 538**
Allegation substantiation
Lacking
GAO review

Protester who raises bare allegations with no specifics that competitor's offer is unacceptable has not provided detailed statement of legal and factual grounds of protest required by General Accounting Office Bid Protest Regulations.

PROCUREMENT
Bid Protests
GAO procedures
Interested parties

B-234689 Con't
June 8, 1989

A protester has no standing to claim an error in a competitor's offer, since it is the responsibility of the contracting parties--the government and the low offeror--to assert rights and bring forth the necessary evidence to resolve mistake questions.

Protester, third low offeror, is not an interested party to challenge award of a contract to the lowest acceptable offeror where it has not raised legally sufficient protest bases against the second low offeror.

PROCUREMENT
Bid Protests
GAO procedures
Preparation costs

B-234716.3 June 8, 1989
89-1 CPD 539

PROCUREMENT
Competitive Negotiation
Offers
Preparation costs

There is no basis for an award of bid preparation and protest costs where the protester withdrew initial protest and subsequent protest was dismissed as academic, since a prerequisite to the award of costs under the Competition in Contracting Act is a decision on the merits of a protest.

PROCUREMENT **B-234730 June 8, 1989**
Socio-Economic Policies **89-1 CPD 540**
Small businesses
Competency certification
Applicability

Certificate of competency (COC) procedures do not apply when a small business firm's offer in a negotiated procurement is considered weak under technical evaluation factors relating to experience and company resources since the COC program is reserved for reviewing nonresponsibility matters, not the comparable evaluation of technical proposals.

PROCUREMENT **B-233727.2 June 9, 1989**
Special Procurement **89-1 CPD 543**
Methods/Categories
In-house performance
Cost evaluation
Administrative policies
Deviation

Where an agency deviated from procedures identified in solicitation, but properly followed guidance issued by the Office of Management and Budget implementing a statutory change, protest that agency failed to follow solicitation instructions is denied, where the protester was not prejudiced by the agency's action.

PROCUREMENT

B-233727.2 Con't

**Special Procurement
Methods/Categories**

June 9, 1989

**In-house performance
Cost evaluation
Government estimates
Computation errors**

Protest that agency failed to include all costs required for in-house performance and otherwise miscalculated costs in conducting a cost comparison under Office of Management and Budget Circular No. A-76, is sustained where the agency failed to include all costs attributable to conversion from predominantly military activity to all civilian activity and misled the protester with regard to inclusion of costs in its proposal for a budget manager position.

PROCUREMENT

Special Procurement Methods/Categories

**In-house performance
Cost evaluation
Price differentials
Applicability**

In a cost comparison conducted under Office of Management and Budget Circular No. A-76, the agency properly applied the 10 percent conversion differential to protester's costs since application is required where in-house commercial activity is being considered for contract.

PROCUREMENT

B-233853.2 June 9, 1989

**Competitive Negotiation
Requests for proposals
Cancellation**

89-1 CPD 544

**Justification
GAO review**

Cancellation of solicitation for dental hygienist services is proper where procuring agency determines there is no longer a need for the solicited services because work will be performed by in-house dental staff.

PROCUREMENT B-234379 June 9, 1989
Competitive Negotiation 89-1 CPD 546
Competitive advantage
Non-prejudicial allegation

Protest that review and selection process for supplier of basal reading materials for Department of Defense Dependent's Schools was tainted by awardee's allegedly improper submission of certain information to reviewers is denied. While it is possible that allegedly improper information had some impact on the review process, it is extremely doubtful that the impact could have been more than a few points out of 1,500 possible points. Moreover, given the fact that agency's price analysis shows that awardee's program will cost less than protester's, there is no legal basis upon which to object to the selection.

PROCUREMENT B-235473 June 9, 1989
Bid Protests 89-1 CPD 549
Premature allegation
GAO review

Protest that potential offeror under request for proposals has an organizational conflict of interest that renders it ineligible to compete is dismissed as premature where agency has made no determination regarding the status or eligibility of the offeror.

PROCUREMENT B-232562.3; B-232562.4
Bid Protests June 12, 1989
GAO decisions 89-1 CPD 550
Recommendation withdrawal

Recommendation to conduct additional discussions, with a view to terminating a contract for vessel charter services depending on the results of those discussions, is withdrawn where agency advises that there is no longer a requirement for the charter services beyond the end of the fiscal year.

PROCUREMENT
Bid Protests
GAO procedures
Preparation costs

B-232562.3; B-232562.4 Con't
June 12, 1989

PROCUREMENT
Bid Protests
GAO procedures
Preparation costs
Attorney fees

Where protester clearly established that agency employed defective evaluation scheme in selecting lowest cost contractor, protester is entitled to its costs of filing and pursuing the protest, including attorneys' fees.

PROCUREMENT
Bid Protests
GAO procedures
GAO decisions
Reconsideration

B-233224.2 June 12, 1989
89-1 CPD 551

Prior decision is affirmed where corrective action recommendation is consistent with applicable decisions of our Office.

PROCUREMENT B-233695.2 June 12, 1989
Sealed Bidding 89-1 CPD 552
Bids
 Responsiveness
 Brand name/equal specifications
 Equivalent products

PROCUREMENT
Specifications
 Brand name/equal specifications
 Equivalent products
 Salient characteristics
 Descriptive literature

Bid offering an "equal" product under a brand name or equal solicitation was properly rejected as nonresponsive where the bidder included descriptive literature for a model which did not meet the salient characteristics specified in the solicitation and added typewritten material for an alleged upgrade of the model which merely repeated the salient characteristics specified.

PROCUREMENT B-232694.2, et al.
Competitive Negotiation June 13, 1989
Discussion 89-1 CPD 553
Offers
 Price adjustments
 Late submission

Allegation that agency asked for and then refused to consider protester's price modifications, even if true, does not require that discussions be held with all offerors within the competitive range where the agency intends to make award on the basis of initial proposals, since the agency's action did not impinge on the integrity of the competitive system.

PROCUREMENT **B-234199.2; B-234856**
Sealed Bidding **June 13, 1989**
Invitations for bids **89-1 CPD 554**
Post-bid opening cancellations
Justification
Sufficiency

Cancellation of solicitation after bid opening is proper where agency reasonably concludes that solicitation does not include significant additional requirements and therefore no longer meets the government's actual needs.

PROCUREMENT
Sealed Bidding
Invitations for bids
Post-bid opening cancellation
Resolicitation

Although original solicitation for construction services was set aside for small businesses, agency did not act improperly in resoliciting on an unrestricted basis after cancellation of first solicitation where resolicitation was undertaken after the January 1, 1989, effective date of the Small Business Competitiveness Demonstration Act of 1988, which generally provides for procurement of the required services on an unrestricted basis.

PROCUREMENT **B-234555 June 13, 1989**
Competitive Negotiation **89-1 CPD 555**
Contract awards
Administrative discretion
Cost/technical tradeoffs
Technical superiority

Protest that award to offeror with second-highest score was inconsistent with agency evaluation plan that provided for award based on highest combined cost/technical point score, and thus was improper, is denied; award may be made to a lower-cost, lower-scored offeror if the agency reasonably determines that there is no significant difference in technical merit.

PROCUREMENT B-234555 Con't
Competitive Negotiation June 13, 1989
Discussion
Adequacy
Criteria

Contracting agency satisfied requirement for meaningful discussions where the notice of the perceived weakness provided during the initial round of discussions led the protester into the area of its proposal needing amplification; having once imparted sufficient information to afford a fair and reasonable opportunity to remedy the weakness, the agency was not required to advise the protester during subsequent discussions that its initial response was inadequate and thereby afford the protester the opportunity to improve its technical rating in this area until it equalled that of other offerors or the maximum score possible.

PROCUREMENT B-234651.2 June 13, 1989
Bid Protests 89-1 CPD 556
GAO procedures
GAO decisions
Reconsideration

Prior dismissal of a protest is affirmed where action taken by the agency (award of the contract to the protester) has rendered the issue academic.

PROCUREMENT B-234671.2 June 13, 1989
Bid Protests 89-1 CPD 557
GAO procedures
Preparation costs

Protester is not entitled to reimbursement of protest costs, including attorneys' fees, where protest is withdrawn because agency took action to satisfy the protester's complaint and thus no decision on the merits of the protest is issued.

PROCUREMENT

Bid Protests

GAO procedures

Preparation costs

Attorney fees

B-234671.2 Con't

June 13, 1989

Protester is not entitled to reimbursement of protest costs, including attorneys' fees, where protest is withdrawn because agency took action to satisfy the protester's complaint and thus no decision on the merits of the protest is issued.

PROCUREMENT

Bid Protests

Premature allegation

Future procurement

GAO review

B-234859 June 13, 1989

89-1 CPD 558

PROCUREMENT

Small Purchase Method

Requests for quotations

Use

Information

Protest that firm submitting low quotation under request for quotations (RFQ) is entitled to the award of a contract is denied where the RFQ was issued for planning purposes only, since contracting agency is not required to issue a purchase order after receiving informational quotations.

PROCUREMENT
Sealed Bidding
Bids

B-234991 June 13, 1989
89-1 CPD 559

Late submission
Acceptance criteria
Government mishandling

Bid delivered to contracting agency's central switchboard area before bid opening but not received at location specified in solicitation until after bid opening properly was rejected as late where paramount cause of late delivery was bidder's failure to ensure that label identifying contents of envelope and indicating bid opening date and time was visible on bid package as required by solicitation.

PROCUREMENT
Bid Protests

B-234855 June 14, 1989
89-1 CPD 560

GAO procedures
Preparation costs

PROCUREMENT
Bid Protests

GAO procedures
Preparation costs
Attorney fees

Protester may not be awarded the costs of filing and pursuing a protest, including attorneys' fees, where protest is academic because agency, shortly after filing of protest, took action to satisfy the protester's complaint and thus no decision on the merits of the protest is issued.



PROCUREMENT
Bid Protests
Moot allegation
GAO review

B-235456 June 14, 1989
89-1 CPD 561

Protest of agency's rejection of proposal is academic where agency reopens negotiations with offeror. Although protester contends that agency should refer matter to Small Business Administration for determination of its financial capability under certificate of competency procedures before conducting negotiations, there is no requirement that agency do so until firm is determined to be in line for award but to be nonresponsible.

PROCUREMENT
Bid Protests
GAO procedures
GAO decisions
Reconsideration

B-226941.4 June 15, 1989
89-1 CPD 562

PROCUREMENT
Bid Protests
GAO procedures
Preparation costs
Burden of proof

Protester's request for reconsideration of decision as to amount of bid protest costs it was entitled to recover pursuant to an earlier decision sustaining its protest is denied where protester fails to show that quantum of costs awarded in prior decision resulted from an error of fact or law.

PROCUREMENT

B-232500.5 June 15, 1989

Bid Protests

89-1 CPD 563

GAO procedures

Protest timeliness

10-day rule

Protest that discussions agency held with the protester were inadequate is dismissed as untimely since it was filed more than 10 working days after the protest basis was learned.

PROCUREMENT

Competitive Negotiation

Offers

Cost realism

Evaluation

Administrative discretion

Protest that agency failed to conduct a proper cost analysis of the awardee's proposal is denied where the agency based its cost analysis on an independent government cost estimate and an audit conducted by the Defense Contract Audit Agency.

PROCUREMENT

Competitive Negotiation

Requests for proposals

Evaluation criteria

Cost/technical tradeoffs

Technical superiority

Protest that agency improperly awarded a contract to an offeror that submitted a technically equal but higher cost proposal is denied where the record demonstrates that the agency determined that the awardee's proposal was technically superior to the protester's proposal and the technical merit of the awardee's proposal warranted its higher cost.

PROCUREMENT **B-234465** **June 15, 1989**
Socio-Economic Policies **89-1 CPD 564**
Small business 8(a) subcontracting
Use
Administrative discretion

Allegation that procuring agency acted in bad faith by withdrawing M781 practice cartridge requirement from the section 8(a) set-aside program is denied where the procuring agency did so because the protester, the current section 8(a) supplier of the requirement, had been given several negative responsibility determinations and was delinquent on an existing contract with the agency and the Small Business Administration was unable to recommend another 8(a) subcontractor.

PROCUREMENT **B-234711** **June 15, 1989**
Socio-Economic Policies **89-1 CPD 566**
Preferred products/services
Domestic products
Interpretation

Accessories of a milling machine required by the solicitation for the machine to meet operational and performance requirements of the solicitation may properly be considered in determining whether the cost of the components of the machine manufactured in the United States or Canada exceeds 50 percent of the cost of all its components.

PROCUREMENT B-234509 June 16, 1989
Sealed Bidding 89-1 CPD 567
Two-step sealed bidding
Offers
Rejection
Propriety

Where protester's step-one technical proposal was properly rejected as technically unacceptable for failure to furnish required detailed quality assurance documentation for aircraft maintenance, there is no basis for concluding that agency acted improperly to assure award to only remaining offeror, the incumbent, from the outset.

PROCUREMENT B-234597; B-234597.2
Specifications June 16, 1989
Minimum needs standards 89-1 CPD 568
Competitive restrictions
Brand name specifications

Protest alleging that salient characteristic specification requiring sprocket drive mechanism for flight test recorders to be contracted for on brand name or equal basis, was unduly restrictive of competition and could be obtained from only one source is denied where the contracting agency has offered a reasonable explanation for the specification in issue and the protesters have not shown that the contracting agency's need for this mechanism is clearly unreasonable.

PROCUREMENT B-234816; B-234829
Contract Management June 16, 1989
Contract administration
Hazardous substances
Federal procurement regulations/laws
Revision

General Accounting Office has no objection to Federal Acquisition Regulation (FAR) case No. 89-15, a proposal to revise FAR section 42.302(a)(39) and the clause at FAR section 52.223-3 to remove the implication that the Contract Administration Services are responsible for administering statutory and regulatory requirements for hazardous materials.

PROCUREMENT
Contract Management
Contract administration
Multiple/aggregate awards
Federal procurement regulations/laws
Revision

General Accounting Office has no objection to Federal Acquisition Regulation (FAR) case No. 89-06, a proposal to revise the clauses at FAR sections 52.214-22 and 52.215-34 to increase from \$250 to \$500 the assumed contract administration costs used by an agency to determine whether a multiple award would be economically advantageous to the government.

PROCUREMENT **B-234842 June 16, 1989**
Noncompetitive Negotiation 89-1 CPD 569
Contract awards
Sole sources
Propriety

General Accounting Office will not object to proposed sole-source award where it does not appear that agency acted unreasonably in concluding that only one known source can meet the government's needs within the required time; the fact that the protester manufactured an earlier version of the item being procured does not render the agency determination unreasonable where the protester is ineligible to receive the secret security clearance required by the solicitation.

PROCUREMENT **B-235023 June 16, 1989**
Specifications **89-1 CPD 570**
Minimum needs standards
Total package procurement
Propriety

Agency decision to procure maintenance and repair services for a vessel on a total package basis is legally unobjectionable where agency reasonably concludes that award of all work items to a single contractor, which will permit tasks not requiring drydocking of the vessel to be performed concurrently with those requiring drydocking, will minimize the number of days that the vessel is out of service.

PROCUREMENT
Sealed Bidding
Qualified bids
Responsiveness

B-235056 June 16, 1989
89-1 CPD 571

Federal Acquisition Regulation § 14.404-2(d)(4) (FAC 84-39) specifically requires rejection of a bid where the bidder conditions or qualifies the bid by stipulating that it is to be considered only if, before the date of award, the bidder does not receive the award under a separate solicitation. Thus, the protester's bid was properly rejected where, on the day of bid opening, protester sent a facsimile copy of the letter which stated that the firm could not accept the award on the solicitation if awarded a contract under another solicitation.

PROCUREMENT
Sealed Bidding
Unbalanced bids
Materiality
Responsiveness

B-234927 June 19, 1989
89-1 CPD 573

A bid in which the bidder submitted inflated prices for two line items should have been rejected as materially unbalanced where the bidder will receive payment for those line items early in the contract performance, tantamount to an advance payment or interest-free loan to which the bidder is not entitled based on the actual value of the work to be performed under the two line items.

PROCUREMENT B-235703 June 19, 1989
Socio-Economic Policies 89-1 CPD 574
Small businesses
Disadvantaged business set-asides
Eligibility
Determination

Absent clear judicial precedent, General Accounting Office will not consider protester's challenge to the constitutionality of agency's use of a small disadvantaged business set-aside since issues involved are more appropriate for resolution by the courts.

PROCUREMENT B-235791 June 19, 1989
Bid Protests 89-1 CPD 575
GAO procedures
Protest timeliness
Apparent solicitation improprieties

PROCUREMENT
Government Property Sales
Timber sales

Protest by awardee of timber sale that auction should have been closed on receipt of its first, lower priced oral bid, is dismissed as untimely where protest shows that awardee participated in auction procedure for 76 subsequent rounds despite knowledge of the improprieties it now alleges.

PROCUREMENT B-235813 June 19, 1989
Bid Protests 89-1 CPD 576
GAO procedures
Protest timeliness
Apparent solicitation improprieties

Where solicitation did not provide for consideration of factors other than price and price related factors in the award determination, allegation that award should have been based on additional factors is untimely, since it was not filed before the time set for receipt of initial proposals.

PROCUREMENT B-235813 Con't
Competitive Negotiation June 19, 1989
Offers
Prices
Evaluation
Technical acceptability

When solicitation specifies that award will be made on the basis of price and "other factors," award must go to the lowest-priced, responsible offeror whose proposal is acceptable under the factors listed in the solicitation and evaluation credit may not be given for factors that are not listed.

PROCUREMENT B-234467 June 20, 1989
Competitive Negotiation 89-1 CPD 577
Offers
Evaluation errors
Evaluation criteria
Application

Protest that agency's evaluation of proposals on the bases of offerors' knowledge of launcher tow tank testing experience and the proximity of the tow tank testing equipment to the agency's facility was "inappropriate" because it afforded a competing offeror a competitive advantage is denied since the evaluation criteria stated in the request for proposals clearly provided for these factors to be considered in the evaluation.

PROCUREMENT
Competitive Negotiation
Technical evaluation boards
Qualification
GAO review

Contracting agency's action in removing a member from the technical evaluation team was reasonable where the agency considered the evaluator to have a potential conflict of interest in that his major graduate degree advisor is an executive of the protesting firm.

PROCUREMENT **B-234521 June 20, 1989**
Competitive Negotiation 89-1 CPD 578
Offers
Competitive ranges
Exclusion
Administrative discretion

Agency properly excluded proposal from the competitive range where there were material informational deficiencies which would have required major revisions in order to make the proposal acceptable.

PROCUREMENT **B-234591; B-234593**
Competitive Negotiation June 20, 1989
Federal procurement regulations/laws
Amendments
Offers

PROCUREMENT
Sealed Bidding
Federal procurement regulations/laws
Amendments
Bids

General Accounting Office has no objection to Federal Acquisition Regulation (FAR) case No. 88-68, a proposal to amend FAR Parts 9, 14, 15, and 52 to provide for rejection of bids or offers containing separately stated first article prices that are materially unbalanced in relation to prices for production quantities.

PROCUREMENT **B-234591; B-234593 Con't**
Socio-Economic Policies June 20, 1989
Preferred products/services
Domestic products
Availability
Criteria

PROCUREMENT
Socio-Economic Policies
Preferred products/services
Domestic products
Federal procurement regulations/laws
Revision

General Accounting Office has no objection to Federal Acquisition Regulation (FAR) case No. 88-72, a proposal to revise FAR sections 25.102(a)(4) and 25.202(a)(3) and the clause at FAR section 52.225-1 to make clear that each procuring agency is responsible for determining, for purposes of establishing an exception to the domestic end product requirements of the Buy American Act, that a given end item is not reasonably available in the United States.

PROCUREMENT **B-234867 June 20, 1989**
Bid Protests 89-1 CPD 579
GAO procedures
Protest timeliness
Deadlines
Constructive notification

Protest is dismissed as untimely where it is filed more than 10 working days after the protester became aware of the basis of its protest; notwithstanding protester's assertion that it was unaware of the timeliness and other provisions of the Bid Protest Regulations, the protester is charged with constructive notice of the Regulations through their publication in the Federal Register.

PROCUREMENT **B-235123; B-235164**
Bid Protests **June 20, 1989**
GAO procedures **89-1 CPD 580**
Protest timeliness
Apparent solicitation improprieties

Protest against agency's determination to exclude offeror from the competitive range is untimely where it was not filed within 10 working days after the protester learned of the exclusion and the basis for the exclusion.

PROCUREMENT
Bid Protests
GAO procedures
Interested parties
Direct interest standards

Protest allegations challenging awards to offerors are dismissed where protester would not be in line for award if allegations were resolved in its favor, and protester therefore is not an interested party.

PROCUREMENT **B-235523 June 20, 1989**
Bid Protests **89-1 CPD 581**
GAO procedures
Interested parties
Direct interest standards

Protester is not an interested party to challenge award to the low bidder where protester submitted second highest of 12 bids and thus would not be in line for award even if its protest were sustained.

PROCUREMENT
Bid Protests
GAO procedures
Protest timeliness
Apparent solicitation improprieties

Protest based on alleged improprieties in a solicitation that are apparent prior to bid opening must be filed prior to that date.

PROCUREMENT
Socio-Economic Policies
Small businesses
Size determination
GAO review

B-235808 June 20, 1989
89-1 CPD 582

Since the Small Business Administration has statutory authority to determine whether a firm is small and disadvantaged for purposes of eligibility for Department of Defense small disadvantaged business (SDB) set-asides, the General Accounting Office will not consider a protest challenging awardee's SDB eligibility status for award of a contract.

PROCUREMENT
Bid Protests
GAO procedures
GAO decisions
Reconsideration

B-229831.8 June 21, 1989
89-1 CPD 583

Second request for reconsideration is denied where the protester reiterates previously raised issues and disagrees with prior decision which found that meaningful discussions were conducted with protester.

PROCUREMENT B-235006 June 21, 1989
Contractor Qualification 89-1 CPD 585
Responsibility/responsiveness distinctions

PROCUREMENT
Sealed Bidding
Invitations for bids
Amendments
Acknowledgment
Responsiveness

Bidders' failure to acknowledge, until after bid opening, receipt of solicitation amendment requiring certification of compliance with the Drug-Free Workplace Act of 1988, Pub. L. No. 100-690, § 5152(a)(1), 102 Stat. 4304 (1988), did not render their bids nonresponsive since by the express terms of the statute and implementing regulations, such certification is a condition of award relating to bidder's responsibility which can be satisfied prior to award.

PROCUREMENT B-235049 June 21, 1989
Competitive Negotiation 89-1 CPD 586
Discussion reopening
Propriety

Offeror who failed to acknowledge a material solicitation amendment was properly considered ineligible for award. Where the contracting agency decided to reopen discussions to give the offeror the opportunity to acknowledge the amendment, the agency properly reopened discussions with all offerors in the competitive range.

Where agency learned that offeror's product will meet its needs but does not comply with requirements of the solicitation, agency properly decided to amend the solicitation and reopen the competition to permit all offerors in the competitive range to respond to the changed requirements.

PROCUREMENT
Competitive Negotiation
Requests for proposals
Amendments
Notification
Contractors

B-235049 Con't
June 21, 1989

Protest that agency deliberately and in bad faith failed to send protester a solicitation amendment is denied where the annotated offerors list shows that the agency mailed the amendment to the offeror and the agency subsequently reopened discussions to permit the protester to acknowledge the amendment.

PROCUREMENT
Payment/Discharge
Shipment
Carrier liability
Burden of proof

B-197911.5 June 22, 1989

A general allegation that the carrier negligently packed a phonograph turntable is not a valid basis to hold the carrier liable for an out-of-balance phonograph turntable shipped with a military member's household goods. A prima facie case without proof of negligence may be established against a carrier by showing that the carrier received the article at origin in good condition and delivered it in damaged condition, with proof of the amount of damages. But the carrier's failure to detect and document any imbalance existing when it received the turntable did not establish receipt in good condition, since it could not reasonably be expected that the carrier would play the phonograph to observe the imbalance. Other proof of good condition upon receipt was not submitted, and there was no proof of the carrier's negligence.

PROCUREMENT B-233100.2 June 22, 1989
Bid Protests 89-1 CPD 587
GAO procedures
GAO decisions
Reconsideration

Request for reconsideration of prior decision denying protest of evaluation of proposals is denied where protester does not establish any factual or legal errors in the prior decision.

PROCUREMENT B-234222.2 June 22, 1989
Bid Protests 89-1 CPD 588
GAO procedures
Protest timeliness
Apparent solicitation improprieties

Protest that solicitation was defective because it specified two different periods of contract performance is untimely since protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening must be filed prior to bid opening.

PROCUREMENT
Contract Management
Contract administration
Convenience termination
Administrative determination
GAO review

Although estimated quantities in a solicitation for a requirements contract for emergency roof repair services overstated the government's anticipated needs, contracting agency is not required to terminate contract and resolicit where there is no indication in the record that bids would have been different had more accurate estimates been provided.

PROCUREMENT
Sealed Bidding
Bids

B-234222.2 Con't
June 22, 1989

Evaluation
Price reasonableness
Administrative discretion

Protest that awardee's bid price on resolicitation was unreasonable because it substantially exceeded the government estimate and was only slightly lower than protester's price, which was rejected as unreasonably high under the first solicitation, is denied where the contracting officer reasonably determined, based on a comparison of prices obtained under the two competitions, that the government estimate was inaccurate and that the awardee's price was reasonable since it was unlikely that a lower price could be obtained.

PROCUREMENT
Sealed Bidding
Invitations for bids
Cancellation
Justification
Price reasonableness

The fact that bid prices received on resolicitation also exceeded the government estimate by a considerable margin has no bearing on the propriety of the cancellation of the first solicitation, since the contracting officer had no way of predicting such prices.

PROCUREMENT B-234650 June 22, 1989
Bid Protests 89-1 CPD 589
GAO procedures
Protest timeliness
Apparent solicitation improprieties

Allegation that amended specification was defective is dismissed as untimely where alleged defect (lack of specificity) was apparent in the amended specification but was not challenged until after the closing date for response to the amendment.

PROCUREMENT
Small Purchase Method
Quotations
Descriptive literature
Adequacy

Under small purchase procedures requiring the submission of product literature to establish product durability, agency properly selected firm whose literature established the minimum life expectancy of its product instead of protester whose product literature was silent on life expectancy and who merely added a hand-written notation to its quotation asserting that its product had a certain life expectancy.

PROCUREMENT B-234660 June 22, 1989
Sealed Bidding 89-1 CPD 590
Two-step sealed bidding
Performance bonds

In two-step sealed bid procurement, agency's inclusion of bonding requirements in the step-two rather than the step-one solicitation is not improper and does not give rise to claim against the government by firm that allegedly would not have competed had it known in advance that bonding would be required.

PROCUREMENT
Contract Management
Contract administration
GAO review

B-234749 June 22, 1989
89-1 CPD 591

Whether, in light of post-award statements attributed to the awardee, the awardee intends to perform in accordance with specifications is a matter of contract administration not to be reviewed by the General Accounting Office.

PROCUREMENT
Sealed Bidding
Bids
Acceptance time periods
Extension

Qualification of an offer to extend awardee's bid acceptance period did not take effect where award was made within the original bid acceptance period set forth in the solicitation.

PROCUREMENT
Sealed Bidding
Bids
Responsiveness
Determination criteria

Awardee's bid, which included a fixed, lump-sum price as required by the solicitation and took no exception to the specifications relating to boiler controllers of a specified manufacturer, constituted an unequivocal offer to comply with all material requirements of the solicitation and was, therefore, responsive.

Allegation that awardee's bid price was too low does not give rise to a responsiveness issue.

PROCUREMENT**Bid Protests****Information disclosure
Competitive advantage****B-235239 June 22, 1989****89-1 CPD 592**

Protest is dismissed where contracting agency is in the process of investigating protester's allegations of fraud and bribery in the procurement process and reports that it will take appropriate corrective action, if allegations are true. The protester may reinstate its protest with the General Accounting Office if its allegations are substantiated by the contracting agency and the protester is not satisfied that the contracting agency has taken appropriate corrective action.

PROCUREMENT**Payment/Discharge****Shipment costs****Rate schedules****Interpretation****B-231519 June 23, 1989**

A carrier shipped the household goods of a Department of Defense employee on a Government Bill of Lading, but performed no packing services. The carrier disputes the method used by the General Services Administration (GSA) in reducing the carrier's charges based on nonperformance of packing. We conclude that GSA's audit action is supported by the Military Traffic Management Command's rate solicitation which provides for carriers to offer rates based on a percentage of a baseline rate. The GSA correctly deducted the non-packing deduction from the individual carrier's percentage rate filed with MTMC, not from the baseline rate.

PROCUREMENT
Sealed Bidding
Invitations for bids
Defects
Evaluation criteria

B-232200.2 June 23, 1989
89-1 CPD 593

Protest is sustained where evaluation of bids clause in solicitation could reasonably be interpreted to mean that award was to be made on a location by location basis whereas the agency contends that it intended to make award on a line item basis.

PROCUREMENT
Bid Protests
GAO procedures
GAO decisions
Reconsideration

B-233702.2 June 23, 1989
89-1 CPD 594

Request for reconsideration which essentially restates arguments previously considered and does not establish any error of law or provide information not previously considered is denied.

PROCUREMENT
Competitive Negotiation
Contract awards
Administrative discretion
Cost/technical tradeoffs
Technical superiority

B-234679 June 23, 1989
89-1 CPD 595

Protest that agency improperly failed to make award to the lowest-priced, technically acceptable offeror is denied where solicitation provided for award to the offeror submitting the most advantageous proposal, considering price and technical factors, and agency reasonably made a price/technical tradeoff in selecting a technically more advantageous, higher-priced offeror.

PROCUREMENT **B-234679 Con't**
Competitive Negotiation **June 23, 1989**
Discussion
Adequacy
Criteria

Protest that meaningful discussions were not conducted with the protester is denied where, after protester responded to agency's technical deficiency question, agency no longer found protester's proposal deficient and where, in any event, agency's ultimate concern was in regard to firm's actual experience which could not be remedied during discussions, rather than inadequacies in firm's presentation of its experience.

PROCUREMENT **B-235323.2; B-235323.3**
Bid Protests **June 23, 1989**
Court decisions **89-1 CPD 596**
Merits adjudication
GAO review

PROCUREMENT
Bid Protests
Forum election
Finality

General Accounting Office will not consider a protest where the issue raised could be resolved as the result of a court suit filed by the protester seeking to direct the General Services Administration Board of Contract Appeals to entertain jurisdiction over the matter, and the court has not expressed interest in a decision by our Office.

PROCUREMENT
Bid Protests
GAO procedures
GAO decisions
Reconsideration

B-235478.2 June 23, 1989
89-1 CPD 597

PROCUREMENT
Bid Protests
GAO procedures
Protest timeliness
10-day rule

Prior dismissal of protest is affirmed on reconsideration where protest that a series of reductions in the required level of effort and estimated number of labor hours under the solicitation favored the incumbent is filed more than 10 working days after the basis of protest is known, or should have been known, and the protester knowingly participated in the procurement process despite the stated reductions in the required labor effort.

PROCUREMENT
Bid Protests
GAO procedures
Protest timeliness
Apparent solicitation improprieties

B-235527 June 23, 1989
89-1 CPD 598

Protest challenging amendments incorporating revisions to the solicitation must be filed no later than the next closing date after the incorporation of the revisions.

PROCUREMENT
Competitive Negotiation
Best/final offers
Duplicate submission

B-234559; B-234559.2
June 26, 1989
89-1 CPD 599

Protest that agency improperly accepted duplicate copy of awardee's best and final offer (BAFO) which agency lost is denied where BAFO was timely received and its prices independently verified by the agency and where record indicates that agency request for duplicate BAFO was harmless and did not prejudice other offerors.

PROCUREMENT B-235480 June 26, 1989
Sealed Bidding 89-2 CPD 7
Bid guarantees
Responsiveness
Letters of credit
Adequacy

A bid guarantee, in the form of an irrevocable letter of credit, must remain available to the government for at least the entire bid acceptance period.

PROCUREMENT B-235773 June 26, 1989
Competitive Negotiation 89-2 CPD 8
Offers
Evaluation
Shipment schedules

Where protester's initial proposal offered a 6-week drydock period instead of the 30 days called for in the solicitation, and despite the Navy's notice during discussions that 30 days was required, the best and final offer still contained the longer period, the proposal was properly rejected.

PROCUREMENT B-232681.5 June 27, 1989
Bid Protests 89-2 CPD 9
GAO procedures
GAO decisions
Reconsideration

PROCUREMENT
Competitive Negotiation
Competitive advantage
Non-prejudicial allegation

Allegation that option clause contained in incumbent's contract to supply pistols is invalid and, therefore, incumbent contractor should be required to compete for contract for additional quantity of pistols provides no basis for reconsidering prior decision, where the contracting agency conducted a competitive procurement and treated incumbent as another offeror in that procurement.

PROCUREMENT

Bid Protests

GAO procedures

Interested parties

Direct interest standards

B-232681.5 Con't

June 27, 1989

Arguments concerning potential price leaks during negotiations and preferential treatment of incumbent contractor in negotiation and price comparison phase of procurement will not be considered on reconsideration, where protester is not an interested party under General Accounting Office's Bid Protest Regulations to raise these issues, because protester's samples failed mandatory product testing conducted prior to submission of proposals and, therefore, protester is not eligible for award.

PROCUREMENT

Competitive Negotiation

Offers

Evaluation

Options

Prices

PROCUREMENT

Competitive Negotiation

Offers

Evaluation

Technical acceptability

Tests

Allegation that it is unfair to compare incumbent's option price for pistols under its current contract with other offerors' price proposals because option price is based on supplying defective pistol is without merit where results of contracting agency's testing show that incumbent's pistol performed substantially better than the pistols submitted by the other offerors, both of which failed to meet the government's minimum performance requirements.

PROCUREMENT **B-232291.3 June 28, 1989**
Bid Protests **89-2 CPD 10**
GAO procedures
GAO decisions
Reconsideration

Prior decision holding that contracting agency's affirmative determination of responsibility was made in good faith is affirmed on reconsideration where protester fails to show that original decision was based on errors of law or fact.

PROCUREMENT **B-234063.4 June 29, 1989**
Competitive Negotiation **89-2 CPD 11**
Requests for proposals
Cancellation
Justification
GAO review

The determination to cancel a competitive procurement to initiate a procurement under section 8(a) of the Small Business Act is a matter for the contracting agency and the Small Business Administration, and will not be reviewed by the General Accounting Office absent a showing of possible fraud or bad faith on the part of government officials.

PROCUREMENT **B-234444; B-234974**
Competitive Negotiation **June 29, 1989**
Federal procurement regulations/laws
Revision
Price data

General Accounting Office expresses no objection to Federal Acquisition Regulation 89-14, proposing changes to FAR Parts 15, 42, and 52 to clarify provisions dealing with contractors' indirect cost rate proposals.

PROCUREMENT **B-234444; B-234974** **Con't**
Socio-Economic Policies **June 29, 1989**
Federal procurement regulations/laws
Revision

General Accounting Office has no objection to Federal Acquisition Regulation (FAR) case No. 84-45, revising FAR Parts 5, 17 and 35 concerning the establishment and use of federally funded research and development centers. These revisions implement Office of Federal Procurement Policy Letter 84-1 and section 912 of Pub. L. No. 99-500.

PROCUREMENT **B-234617** **June 29, 1989**
Specifications
Minimum needs standards
Competitive restrictions
Justification
Sufficiency

Allegation that invitation for bids requirements for facsimile equipment capable of transmitting and receiving both commercial information and secure information within Department of Defense agencies and North Atlantic Treaty Organization are unduly restrictive of competition is denied where the requirements are shown to reflect minimum needs of the agency and the protester does not submit comments establishing otherwise.

PROCUREMENT **B-234710** **June 29, 1989**
Competitive Negotiation **89-2 CPD 12**
Discussion
Adequacy
Criteria

Agency satisfied obligation to conduct meaningful discussions, even though it did not advise the incumbent offeror that its costs were higher than the government's cost estimate, where the agency reasonably advised the offeror during discussions of all matters, including costs, found in the evaluation to need addressing.

PROCUREMENT	B-235704.2 June 29, 1989
Bid Protests	89-2 CPD 13
GAO procedures	
GAO decisions	
Reconsideration	

Request for reconsideration of protest that was dismissed as untimely is denied where the protest was filed with the General Accounting Office more than 10 working days after the basis for the protest should have been known.

PROCUREMENT	B-233439.2 June 30, 1989
Bid Protests	89-2 CPD 14
GAO procedures	
GAO decisions	
Reconsideration	

Request for reconsideration is denied where the protester fails to show any error of fact or law that would warrant reversal or modification of prior decision, but reiterates arguments considered in the initial decision and, otherwise, untimely seeks to expand prior allegation to include challenge that solicitation amendment issued prior to the closing date for submission of offers rendered the solicitation unduly restrictive of competition.

PROCUREMENT	B-234141.7 June 30, 1989
Competitive Negotiation	89-2 CPD 15
Offers	
Competitive ranges	
Exclusion	
Administrative discretion	

Agency determination that proposal was technically unacceptable and was not in the competitive range will not be disturbed where proposal contained deficiencies such that the proposal had no reasonable chance for award and would require major revisions to be acceptable.

PROCUREMENT

Bid Protests

GAO procedures

Interested parties

Direct interest standards

B-234668 June 30, 1989

89-2 CPD 16

Protester is an interested party with standing under General Accounting Office Bid Protest Regulations, since protester would be in line for award were its protest to be sustained on the basis that low bidder and second lowest bidder are ineligible for award because they are not small businesses.

PROCUREMENT

Bid Protests

GAO procedures

Protest timeliness

Apparent solicitation improprieties

Protest that scheduling bid opening only 5 days before contract commencement was to begin was prejudicial to protester is untimely where not filed before bid opening.

PROCUREMENT

Socio-Economic Policies

Small businesses

Contract awards

Pending protests

Justification

Procuring agency may make award under total small business set-aside, notwithstanding size status protest pending before Small Business Administration, where contracting officer has made reasonable determination that government needs will not permit delay in contract award.

PROCUREMENT

Bid Protests

GAO procedures

GAO decisions

Reconsideration

B-235607.2 June 30, 1989

89-2 CPD 18

Dismissal of protest is affirmed on reconsideration where protester's argument in essence remains that solicitation should incorporate more restrictive delivery requirements.

MISCELLANEOUS TOPICS

MISCELLANEOUS TOPICS B-208593.7 June 29, 1989
Environment/Energy/Natural Resources
Environmental protection
Rulemaking
Review authority

OMB decision to review EPA State Implementation Plan (SIP) disapprovals under Executive Order No. 12,291 and individual OMB determinations with regard to specific SIP applications are generally not subject to judicial review. Actions on SIP applications are unquestionably rules, and the order gives OMB authority to decide what rules to review. Nonreviewability stems from the fact that the order is limited to internal management improvements and creates no rights for third parties.

INDEX

June 1989

		<u>June</u>	<u>Page</u>
APPROPRIATIONS/FINANCIAL MANAGEMENT			
Appropriation Availability			
Purpose availability			
Business cards	B-223678	5...A-	1
Representational funds			
Foreign service personnel			
Entertainment/ recreation	B-232165	14...A-	3
Specific purpose restrictions			
Entertainment/recreation	B-223678	5...A-	1
Claims Against Government			
Documentation procedures			
Facsimile signatures			
Acceptability	B-235749.1	8...A-	2
Statutes of limitation			
Administrative regulations			
Modification	B-198713.3	9...A-	2
Claims by Government			
Overpayments			
Blanket waiver	B-233640	28...A-	3
CIVILIAN PERSONNEL			
Compensation			
Overpayments			
Error detection			
Debt collection			
Waiver	B-232480	2...B-	1
	B-234731	19...B-	4

INDEX - Con.

		<u>June</u>	<u>Page</u>
CIVILIAN PERSONNEL - Con.			
Compensation - Con.			
Overtime			
Eligibility			
Advance approval	B-233389	23...	B- 6
Retroactive compensation			
Adverse personnel actions			
Reimbursement			
Insurance premiums	B-233836	13...	B- 2
Eligibility			
Details	B-233131	22...	B- 5
Leaves of Absence			
Administrative leave			
Eligibility			
Intermittent employment			
Furloughs	B-233656	19...	B- 3
Relocation			
Actual expenses			
Eligibility			
Adverse personnel actions			
Reinstatement	B-233836	13...	B- 3
Expenses			
Liability			
Breach of service			
agreements	B-230338.2	2...	B- 1
Household goods			
Advance payments			
Liability			
Waiver	B-231120.2	23...	B- 5

INDEX - Con.

	<u>June</u>	<u>Page</u>
CIVILIAN PERSONNEL - Con.		
Relocation - Con.		
Temporary quarters		
Actual subsistence expenses		
Dependents		
Eligibility	B-226937.3	22...B- 4
Travel		
Advances		
Debt collection		
Waiver		
New appointment	B-233827	2...B- 2
Permanent duty stations		
Actual subsistence expenses		
Prohibition	B-234346	26...B- 7
Temporary duty		
Per diem		
Additional expenses		
Rest periods	B-233389	23...B- 6
MILITARY PERSONNEL		
Pay		
Retirement pay		
Overpayments		
Debt collection		
Waiver	B-231498	21...C- 3
	B-235501	23...C- 3
Retired personnel		
Foreign employment	B-231498	21...C- 3
Relocation		
Household goods		
Shipment		
Travel regulations		
Amendments	B-235262	9...C- 2

INDEX - Con.

	<u>June</u>	<u>Page</u>
MILITARY PERSONNEL - Con.		
Travel		
Advances		
Overpayments		
Debt collection		
Waiver	B-231567	7...C- 1
MISCELLANEOUS TOPICS		
Environment/Energy/Natural Resources		
Environmental protection		
Rulemaking		
Review authority	B-208593.7	29...E- 1
PROCUREMENT		
Bid Protests		
Allegation substantiation		
Lacking		
GAO review	B-234689	8...D-10
Court decisions		
Merits adjudication		
GAO review	B-235323.2) B-235323.3)	23...D-42
Forum election		
Finality	B-235323.2) B-235323.3)	23...D-42
GAO decisions		
Recommendations		
Modification	B-231885.2	2...D- 3
Recommendation withdrawal	B-232562.3) B-232562.4)	12...D-14

INDEX - Con.

		<u>June</u>	<u>Page</u>
PROCUREMENT - Con.			
Bid Protests - Con.			
GAO procedures			
GAO decisions			
Reconsideration	B-226941.4	15...	D-21
	B-229831.8	21...	D-33
	B-230309.7)		
	B-230309.8)	6...	D- 6
	B-231885.2	2...	D- 3
	B-232291.3	28...	D-46
	B-232681.5	27...	D-44
	B-232958.2	1...	D- 1
	B-233100.2	22...	D-36
	B-233224.2	12...	D-15
	B-233439.2	30...	D-48
	B-233702.2	23...	D-41
	B-234628.2	5...	D- 5
	B-234651.2	13...	D-18
	B-235478.2	23...	D-43
	B-235607.2	30...	D-50
	B-235704.2	29...	D-48
Interested parties			
Direct interest	B-234689	8...	D-11
standards	B-232681.5	27...	D-45
	B-234668	30...	D-49
	B-235123)		
	B-235164)	20...	D-32
	B-235523	20...	D-32
Preparations costs			
	B-232562.3)		
	B-232562.4)	12...	D-15
	B-234671.2	13...	D-18
	B-234716.3	8...	D-11
	B-234855	14...	D-20

INDEX - Con.

		<u>June</u>	<u>Page</u>
PROCUREMENT - Con.			
Bid protests - Con.			
GAO procedures - Con.			
Preparation costs - Con.			
Attorney fees	B-232562.3)		
	B-232562.4)	12...	D-15
	B-234671.2	13...	D-19
	B-234855	14...	D-20
Burden of proof	B-226941.4	15...	D-21
Protest timeliness			
Apparent solicitation			
improprieties			
	B-234222.2	22...	D-36
	B-234650	22...	D-38
	B-234668	30...	D-49
	B-235123)		
	B-235164)	20...	D-32
	B-235523	20...	D-32
	B-235527	23...	D-43
	B-235791	19...	D-28
	B-235813	19...	D-28
Deadlines			
Constructive			
notification			
	B-234867	20...	D-31
10-day rule			
	B-232500.5	15...	D-22
	B-235478.2	23...	D-43
Reconsideration motions	B-235477.2	7...	D- 9
Information disclosure			
Competitive advantage			
	B-235239	22...	D-40
Moot allegation			
GAO review			
	B-235456	14...	D-21

INDEX - Con.

	<u>June</u>	<u>Page</u>
PROCUREMENT - Con.		
Bid Protests - Con.		
Premature allegation		
Future procurement		
GAO review	B-234859	13...D-19
GAO review	B-235473	9...D-14
Competitive Negotiation		
Best/final offers		
Duplicate submission	B-234559)	
	B-234559.2)	26...D-43
Competitive advantage		
Non-prejudicial allegation	B-232681.5	27...D-44
	B-234368	8...D-10
	B-234379	9...D-14
Contract awards		
Administrative discretion		
Cost/technical tradeoffs		
Technical superiority	B-234555	13...D-17
	B-234679	23...D-41
Propriety	B-234368	8...D-10
Discussion		
Adequacy		
Criteria	B-234434	7...D- 8
	B-234555	13...D-18
	B-234679	23...D-42
	B-234710	29...D-47
Offers		
Price adjustments		
Late submission	B-232694.2,	
	et al.)	13...D-16

INDEX - Con.

	<u>June</u>	<u>Page</u>
PROCUREMENT - Con.		
Competitive Negotiation - Con.		
Discussion reopening		
Propriety	B-235049	21...D-34
Federal procurement regulations/laws		
Amendments		
Offers	B-234591)	
	B-234593)	20...D-30
Revision		
Price data	B-234444)	
	B-234974)	29...D-46
Offers		
Competitive ranges		
Exclusion		
Administrative discretion	B-234141.7	30...D-48
	B-234308	2...D- 3
	B-234521	20...D-30
Cost realism		
Evaluation		
Administrative discretion	B-232500.5	15...D-22
Evaluation		
Options		
Prices	B-232681.5	27...D-45
Shipment schedules		
	B-235773	26...D-44
Technical acceptability		
Tests	B-232681.5	27...D-45
Evaluation errors		
Evaluation criteria		
Application	B-234467	20...D-29

INDEX - Con.

	<u>June</u>	<u>Page</u>
PROCUREMENT - Con.		
Competitive Negotiation - Con.		
Offers - Con.		
Preparation costs	B-234716.3	8...D-11
Prices		
Evaluation		
Technical acceptability	B-235813	19...D-29
Risks		
Pricing	B-234144.2	8...D- 9
Requests for proposals		
Amendments		
Notification		
Contractors	B-235049	21...D-35
Cancellation		
Justification		
GAO review	B-233853.2	9...D-13
	B-234063.4	29...D-46
Evaluation criteria		
Cost/technical tradeoffs		
Technical superiority	B-232500.5	15...D-22
Technical evaluation boards		
Qualification		
GAO review	B-234467	20...D-29
Use		
Criteria	B-234144.2	8...D-10
Contract Management		
Contract administration		
Convenience termination		
Administrative determination		
GAO review	B-234222.2	22...D-36

INDEX - Con.

	<u>June</u>	<u>Page</u>
PROCUREMENT - Con.		
Contract Management - Con.		
Contract administration - Con.		
GAO review	B-234749	22...D-39
Hazardous substances		
Federal procurement regulations/laws		
Revision	B-234816)	
	B-234829)	16...D-25
Multiple/aggregate awards		
Federal procurement regulations/laws		
Revision	B-234816)	
	B-234829)	16...D-25
Contractor Qualification		
Contractor personnel		
Drug control		
Federal procurement regulations/laws		
Revision	B-234485)	
	B-234486)	1...D- 1
GAO review		
	B-230309.7)	
	B-230309.8)	6...D- 6
Responsibility/responsiveness		
distinctions		
	B-234723)	
	B-234724)	6...D- 7
	B-235006	21...D-34
Government Property Sales		
Timber sales		
	B-235791	19...D-28
Noncompetitive Negotiation		
Contract awards		
Sole sources		
Propriety	B-234842	16...D-26

INDEX - Con.

	<u>June</u>	<u>Page</u>
PROCUREMENT - Con.		
Payment/Discharge		
Shipment		
Carrier liability		
Burden of proof	B-197911.5	22...D-35
Shipment costs		
Rate schedules		
Interpretation	B-230345	2...D- 2
	B-231519	23...D-40
Sealed Bidding		
Bid guarantees		
Responsiveness		
Contractors		
Identification	B-234723)	
	B-234724)	6...D- 7
Letters of credit		
Adequacy	B-235480	26...D-44
Sureties		
Acceptability		
Information submission	B-234613	7...D- 9
Bids		
Acceptance time periods		
Extension	B-234749	22...D-39
Evaluation		
Price reasonableness		
Administrative		
discretion	B-234222.2	22...D-37
Late submission		
Acceptance criteria		
Government mishandling	B-234991	13...D-20

INDEX - Con.

		<u>June</u>	<u>Page</u>
PROCUREMENT - Con.			
Sealed Bidding - Con.			
Bids - Con.			
Minor deviations			
Acceptability	B-234723)		
	B-234724)	6...D-	8
Responsiveness			
Brand name/equal specifications			
Equivalent products	B-233695.2	12...D-	16
	B-234074.2	6...D-	7
Determination criteria	B-234749	22...D-	39
Contract award notification			
Procedural defects	B-234723)		
	B-234724)	6...D-	8
Contract awards			
Propriety	B-234383	5...D-	4
Federal procurement regulations/laws			
Amendments			
Bids	B-234591)		
	B-234593)	20...D-	30
Invitations for bids			
Amendments			
Acknowledgment			
Responsiveness	B-235006	21...D-	34
Cancellation			
Bids			
Price disclosure	B-234383	5...D-	4
Justification			
Price reasonableness	B-234222.2	22...D-	37

INDEX - Con.

	<u>June</u>	<u>Page</u>
PROCUREMENT - Con.		
Sealed Bidding - Con.		
Invitations for bids - Con.		
Cancellation - Con.		
Resolicitation		
Propriety	B-234383	5...D- 5
Defects		
Evaluation criteria	B-232200.2	23...D-41
Post-bid opening cancellation		
Justification		
Sufficiency	B-234199.2) B-234856)	13...D-17
Resolicitation	B-234199.2) B-234856)	13...D-17
Qualified bids		
Responsiveness	B-235056	16...D-27
Two-step sealed bidding		
Offers		
Rejection		
Propriety	B-234509	16...D-24
Performance bonds	B-234660	22...D-38
Unbalanced bids		
Materiality		
Responsiveness	B-234927	19...D-27
Socio-Economic Policies		
Federal procurement regulations/laws		
Revision	B-234444) B-234974)	29...D-47

INDEX - Con.

		<u>June</u>	<u>Page</u>
PROCUREMENT - Con.			
Socio-Economic Policies - Con.			
Preferred products/services			
Domestic products			
Availability			
Criteria	B-234591)		
	B-234593)	20...	D-31
Federal procurement regulations/laws			
Revision			
	B-234591)		
	B-234593)	20...	D-31
Interpretation			
	B-234711	15...	D-23
Small business 8(a) subcontracting			
Use			
Administrative discretion			
	B-234465	15...	D-23
	B-234628.2	5...	D- 5
Small businesses			
Competency certification			
Applicability			
	B-234730	8...	D-12
Competition enhancement			
Federal procurement regulations/laws			
Revision			
	B-234485)		
	B-234486)	1...	D- 2
Contract awards			
Pending protests			
Justification			
	B-234668	30...	D-49
Disadvantaged business set-asides			
Eligibility			
Determination			
	B-235703	19...	D-28
Responsibility			
Competency certification			
GAO review			
	B-235437	5...	D- 6

INDEX - Con.

	<u>June</u>	<u>Page</u>
PROCUREMENT - Con.		
Socio- Economic Policies - Con.		
Small businesses - Con.		
Size determination		
GAO review	B-235808	20...D-33
Small Purchase Method		
Quotations		
Descriptive literature		
Adequacy	B-234650	22...D-38
Requests for quotations		
Use		
Information	B-234859	13...D-19
Special Procurement Methods/Categories		
In-house performance		
Cost evaluation		
Administrative policies		
Deviation	B-233727.2	9...D-12
Government estimates		
Computation errors	B-233727.2	9...D-13
Price differentials		
Applicability	B-233727.2	9...D-13
Specifications		
Brand name/equal specifications		
Equivalent products		
Salient characteristics		
Descriptive literature	B-233695.2	12...D-16
Minimum needs standards		
Competitive restrictions		
Brand name specifications	B-234597)	
	B-234597.2)	16...D-24

INDEX - Con.

		<u>June</u>	<u>Page</u>
PROCUREMENT - Con.			
Specifications - Con.			
Minimum needs standards - Con.			
Competitive restrictions - Con.			
Justification			
Sufficiency	B-234617	29...	D-47
Total package procurement			
Propriety	B-235023	16...	D-26

States
Accounting Office
ington, D.C. 20548

Special Fourth Class Rate
Postage & Fees Paid
GAO
Permit No. G100

ess
ivate Use \$300

ection Requested