



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

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B-177611

July 9, 1973

United Power & Control Systems, Inc.
431 North 34th
Seattle, Washington 98103

Attention: Mr. G. F. Main

Gentlemen:

This is in reply to your letter dated March 30, 1973, and prior correspondence, protesting against the rejection of all bids under invitation for bids DACW01-73-B-0037, issued by the United States Army Corps of Engineers, Mobile, Alabama.

As a result of a detailed technical evaluation by the Engineering Division of the literature and data submitted by the bidders under the REQUIREMENT FOR DESCRIPTIVE LITERATURE clause (paragraph 22) of the solicitation, it was determined that none of the information furnished with any of the bids was fully responsive to the requirements of the clause. Therefore, the contracting officer decided to reject all bids and readvertise the procurement.

You have contended that the data furnished with your bid was not deficient and that the award should have been made to you. However, aside from the deficiencies noted by the contracting officer, you were advised by a representative of our Office of the possibility that the bid might be considered nonresponsive by our Office because of a legend that appeared on the descriptive literature furnished with the bid as follows: "General Electric reserves the right to make changes in the equipment or software, and its characteristics or functions, at any time without notice." You were provided an opportunity to present your views on the matter. No written comments were received from you within the time provided.

The legend in the descriptive literature which was furnished with your bid provides an option for deviation from the advertised requirements after award. Our Office has held that such a legend in descriptive literature is a material deviation that renders a bid nonresponsive. B-177390, March 8, 1973.

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Therefore, since this legend renders your bid nonresponsive, we need not consider whether your bid was otherwise responsive. Accordingly, your protest is denied.

Sincerely yours,

PAUL G. DEMBLING
Acting Comptroller General
of the United States