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

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Proc II

B-195208

April 23, 1980

The Honorable Allen E. Ertel  
House of Representatives

Dear Mr. Ertel:

By letter of March 15, 1980, we sent you a copy of our decision on the protest of Brodart, Inc., Williamsport, Pennsylvania, concerning the award of a contract for card catalog cases under solicitation No. 79-15 issued by the Library of Congress. Earlier you had requested our comments on the solicitation's requirement that each bidder have an on-site wood drying kiln.

The facts did not require that the decision consider the reasonableness or unreasonableness of the kiln requirement. This issue was not resolved as all the bidders (including Brodart), except the one awarded the contract, qualified their bids by taking exceptions to various provisions of the solicitation. Thus, all bids except that of the awardee appear to have been nonresponsive and those firms could not have been awarded a contract even if they had possessed a kiln.

Although we appreciate your concern that the kiln requirement may have been unduly restrictive of competition, we think the matter has become academic. We have been informed by the Library that since this protest was filed, it has decided, after consultation with Brodart and others, to attempt to meet its future needs by requiring contractors to purchase certified lumber from qualified suppliers, to certify that transportation and storage has had no adverse effect upon the lumber's moisture content, and to permit Library personnel to inspect and reject any lumber with an excessive moisture content. The Library has assured us that so long as this new procedure works successfully, it has no intention of reinstating the on-site kiln requirement. Under these circumstances, we believe no useful purpose would be served now by our expenditure

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of the resources necessary to give an informed comment as to the reasonableness of the kiln requirement in this procurement. Of course, if the Library should insert the requirement in a future procurement and we receive a timely protest, we would treat the issue based upon the facts presented at that time.

We have also been informed by the Library that its records do not indicate previous use of the kiln requirement at least during the past several years. This procurement was advertised in the Commerce Business Daily on March 5, 1979 and 18 firms requested and were sent bid packages. Five bids were received.

I hope you agree that this disposition of your request is appropriate in view of the fact the kiln requirement is no longer being used and was not a decisive factor in our decision.

Sincerely yours,



Acting Comptroller General  
of the United States