



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

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The Honorable Arthur F. Sampson
Acting Administrator, General
Services Administration

BEST DOCUMENT AVAILABLE

Dear Mr. Sampson:

Enclosed is a copy of our decision of today to Donovan Construction Company and Incorporated Systems Company wherein we sustain the determination of your agency to consider certain technical proposals submitted pursuant to step one of a two-step formal advertising procurement.

Briefly, the solicitation included a late technical proposal clause which provided that untimely proposals would be considered only if certain stated conditions were met. Two late proposals were received but neither of these proposals met the stated conditions. Nevertheless, on the strength of certain decisions of our Office, your agency concluded that the provisions of the late technical proposal clause need not be strictly enforced and that the two late proposals properly could be considered under step one. In view of your agency's reliance on our past decisions, we concluded that we could not object to the consideration of these proposals by your agency.

However, as indicated in our decision to the protester, we also believe that late technical proposal clauses used in step one solicitations should appropriately advise offerors of the rules to be applied with respect to late technical proposals and that late proposals received under step one should be treated in strict accordance with the provisions of such clauses. While we agree with your agency that it is in the Government's best interests to prevent the elimination of potentially qualified sources from the competitive base under step one, we do not believe the competitive system is well served by treating proposals under step one contrary to the terms of the solicitation. We believe that once the rules of the competition have been established they should be followed. Therefore, we recommend that in future step one proceedings late technical proposals

[Agency Consideration of Late Proposals]

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should be treated in strict accordance with the terms of the solicitation. Any decision of our Office to the contrary is hereby modified accordingly.

Sincerely yours,

PAUL G. DEMBLING
For the Comptroller General
of the United States