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United States General Accounting Office
Washington, DC 20548

NOTICE REGARDING ELECTRONIC FILINGS IN BID PROTESTS AT THE GENERAL ACCOUNTING OFFICE

For several months, the General Accounting Office has been conducting a pilot project permitting the limited use of electronic filings (“e-filings”) in its bid protest forum. Because the results of the pilot project suggest that bid protest e-filings have been helpful and well received, GAO is considering expanding the use of e-filings. During the pilot project, e-mail and e-mail attachments have been used for the purpose of transmitting only **unprotected** documents or communications among the parties. In addition, GAO has been accepting certain types of electronic media (primarily diskettes and CD-ROMs) with permission of the cognizant GAO attorney, where the filings do not present access problems or where any problems can be readily solved by indexing or other referencing. The main impediment to more widespread use of e-filings has been concern about whether protected material should be allowed to be transmitted, which is primarily due to concerns about security and the possible impact on third parties (that is, those who are not participating in the protest, such as other offerors, whose protected material might be transmitted via e-filing).

We anticipate that within the next several years technological advances, including widely available security measures, will lead to the use of a vehicle such as a secure, password-protected web site for purposes of filing bid protest material, including protected documents. We are in the process of meeting with representatives of courts and other fora engaged in electronic filing efforts to gather information and ideas about such a web site. In the interim, GAO is considering expanding the use of e-filings by permitting (on request and with explicit approval by the cognizant GAO attorney) the transmission of protected material via e-mail and e-mail attachments. We invite comments from the bid protest community on this proposed expansion. We are particularly interested in hearing whether the use of e-mail for protected filings would be viewed as significantly increasing the risk of disclosure beyond the level present in the use of telefacsimile transmissions, which are currently a permitted method of transmitting protected material. In this regard, it would be helpful to hear about experiences with public key infrastructure (PKI) or other encryption tools. We would also appreciate comments addressing the considerations associated with any increased risks that third parties would be subjected to as a result of this expansion, and any suggestions concerning possible increased security measures, consent, procedural considerations, and any other matter that commenters feel should be addressed as part of this expansion.

Please submit your comments to Tania Calhoun, Senior Attorney, either by e-mail at CalhounT@gao.gov, or by conventional mail at: U.S. General Accounting Office, Room 7285, Washington, D.C. 20548, by March 28, 2001.