



United States  
General Accounting Office  
Washington, D.C. 20548

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Office of the General Counsel

B-231743.3

September 26, 1988

Freedman, Levy, Kroll & Simonds  
Counsel for Professional Medical Products, Inc.  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036-5100

Gentlemen:

We refer to the protest you filed with our Office on September 9, 1988, on behalf of Professional Medical Products, Inc., concerning the decision by the Veterans Administration (VA) to continue performance under contracts awarded pursuant to solicitation No. M1-80-88.

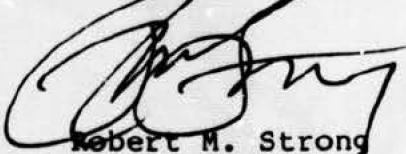
The awards were the subject of a protest you filed in our Office earlier this year, which we dismissed by decision of July 1. On August 26, we dismissed your request for reconsideration because by that time the matter was in litigation in the United States District Court. Professional Medical Products, Inc. v. United States of America, et al., Civil Action No. 88-2014.

Your current protest challenges procurement actions you say the VA is contemplating based on tests the agency commissioned after the VA's apparently voluntary suspension of orders to both contractors. You argue that the protest thus is distinct from the matters in litigation so that we should consider it on the merits, and that the VA therefore must stay performance pursuant to the Competition in Contracting Act of 1984.

We will not consider the protest. Based on our review of the record, it is apparent that the tests to which you refer and which provide the basis for your most recent protest were conducted under the auspices of an agreement between you and the Office of the United States Attorney for the District of Columbia in conjunction with ongoing litigation. Moreover, the issues you now raise clearly are intertwined with, if not substantially the same as, those before the court.

In these circumstances, our review of your protest would not be appropriate, and we are closing our file on the matter.

Sincerely yours,



Robert M. Strong  
Deputy Associate  
General Counsel