



Office of the General Counsel

B-224768.3

May 16, 1988

4-J Sales & Service  
110 Seine Court  
Alpharetta, Georgia 30201

Dear :

This responds to your letter of May 3, 1988, concerning Department of the Army request for proposals (RFP) No. DAAA09-85-R-1383. You question the Army's decision, communicated to you in a March 31, 1988, letter, to close its file on a bid protest under the solicitation that you filed with that agency in June of 1986.

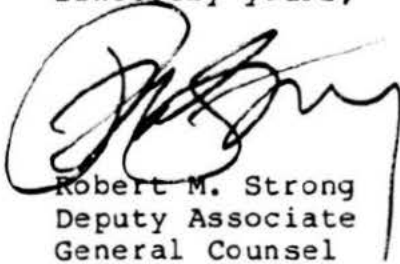
The record shows that by letter to the Army dated June 5, 1986, you protested about the issuance of an amendment to the solicitation, arguing that the changes effected were so substantial that the solicitation instead should have been canceled. Also, by letter of September 21, 1986, you filed a protest with our Office focusing on the manner in which negotiations were conducted in the procurement. We dismissed that protest on September 24, 1986, as untimely under our Bid Protest Regulations, because it was not filed within 10 working days of the date you knew the basis for protest (as you admitted in the protest letter). The Army, which apparently never has responded formally to your June, 1986, protest, has advised you that it is relying on our dismissal in closing its file.

We see no reason to object to the Army's decision. First, any possibility of corrective action in the procurement, if warranted, clearly is well-passed, since the contract was awarded in August of 1986. Second, the time for appealing the matter to our Office expired long ago. Under our Regulations, where a protest initially was filed with the contracting agency, any subsequent protest to our Office must be filed within 10 working days of initial adverse agency action. Such initial action occurred with respect to your Army protest when, in 1986, the Army proceeded with the procurement and accepted proposals in response to the amendment in issue despite the fact that you had protested

to the agency. Finally, we do not see how, as a practical matter, you might have been prejudiced by the Army's amendment of the RFP in any event, since the record shows you were given a fair opportunity to respond.

In sum, we can see no useful purpose that would be served by the Army considering, at this time, your June, 1986, protest.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'R. Strong', written over the typed name and title.

Robert M. Strong  
Deputy Associate  
General Counsel