



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

Office of the General Counsel

B-228019.2

September 16, 1987

James Watterson, Esquire, Counsel for
Action Building Systems, Inc.
3104 Heitman Court
San Jose, California 95132

Dear Mr. Watterson:

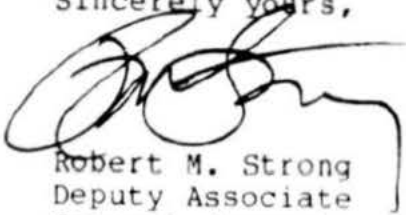
This responds to your August 20, 1987, request that we reconsider our August 6 dismissal of a protest filed in our Office by Action Building Systems, Inc., under General Services Administration solicitation No. IFB-87-KS-0838 for janitorial and related services at the Federal Center in Alameda, California. The dismissal was based on Action's failure to state a basis for protest; the firm, in its protest letter, merely alluded to an unidentified inconsistency between information in the solicitation and information provided to Action by various GSA employees.

In requesting reconsideration, you state that a GSA employee gave an Action employee wrong information about the "current" contract's monthly cost, which you suggest resulted in unrealistically low bids and will lead to performance problems. To the extent the protest involves the low bidder's ability to perform at the price offered, that is a matter of the firm's responsibility, and our Office generally does not review a contracting agency's decision that a prospective contractor is responsible, which must precede any award. See section 21.3(f)(5) of our Bid Protest Regulations, 4 C.F.R. part 21 (1987). If Action is suggesting that actual performance will not be satisfactory, that is a matter of contract administration, which is GSA's function, not our Office's. See section 21.3(f)(1) of our Regulations.

Finally, to the extent your letter does present any details, it appears that they are untimely under our Regulations' filing requirements, since bids were opened on May 28, 1987, and your letter was received more than 10 working days thereafter. See section 21.2(a).

In these circumstances, we will not reconsider our dismissal of the protest.

Sincerely yours,

A handwritten signature in black ink, appearing to be "R. M. Strong", written over the typed name.

Robert M. Strong
Deputy Associate
General Counsel