



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

Office of the General Counsel

B-224838.3

July 29, 1987

MZP Inc.  
P.O. Box 268  
Vacaville, California 95696-0268

Attn: Spyridon Marin  
General Manager

Gentlemen:

This responds to your letter dated June 16, 1987, regarding our decision, The Department of the Army and the Air Force, National Guard Bureau--Reconsideration, B-224838.2, June 1, 1987, 87-1 CPD ¶ \_\_\_\_\_, which deleted our prior conclusion that your firm was entitled to recover its bid preparation costs since the subject invitation for bids (IFB) was properly canceled and no award would have been made to MZP in any event. You allege that the decision was based on two material errors as follows: 1) the decision states that any award exceeding \$50,000 required approval from a higher command (and that this command denied approval), whereas the solicitation stated that only awards exceeding \$100,000 required such approval; and 2) the decision states that the requisite approval was not sought prior to issuance of the IFB because the government estimate was less than \$50,000, whereas the record contains a government estimate of \$88,487. You suggest that the Army's cancellation based on a lack of approval therefore may have been made in bad faith.

Enclosed is a copy of a letter from the contracting agency explaining that in addition to the solicitation clause that states who has authority to create a contract in excess of

\$100,000, the agency had its own internal procedure that required the review and approval by a different office of all solicitations for projects expected to exceed \$50,000. Consistent with this procedure, the cognizant office reviewed the IFB and determined that the project was not needed. Although you state you have reason to believe the project was performed by someone else, you have submitted no evidence demonstrating this to be the case, and we have no reason to believe the agency canceled the IFB in bad faith.

Regarding the presence in the record of a government estimate in the amount of \$88,487, we note that the date of that estimate was October 16, 1986, 3 months after the solicitation was issued. The estimate therefore does not serve to refute that the contracting activity originally estimated the cost of the project to be less than \$50,000, and that this was the reason it did not seek approval for an award exceeding that amount until after bids had been opened. While this low estimate might have proved incorrect, again, the record lacks any evidence that the agency acted in bad faith in developing the estimate.

The government does not guarantee that a contract will be awarded under every solicitation, and a firm must bear the risk of cancellation of a properly issued solicitation where the government reasonably determines the items are not needed or adequate funding is not available.

Sincerely yours,



Ronald Berger  
Deputy Associate  
General Counsel

Enclosure