



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

Office of the General Counsel

B-226895

May 1, 1987

The Honorable Bill Nelson
Member, United States House of
Representatives
780 South Apollo Boulevard
Suite 12
Melbourne, Florida 32901-1423

Dear Mr. Nelson:

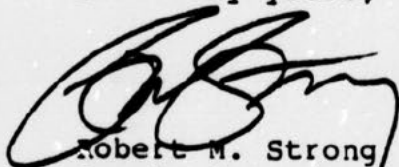
This responds to your letter of April 13, 1987, on behalf of Visual Products Systems, Inc. (VPS), concerning the Defense Logistics Agency's (DLA) rejection of the company's bid as nonresponsive in a procurement for medicine cabinet combinations. You ask that we review a letter from VPS to you in which VPS states the bid was rejected because of the firm's notation on page 32 that VPS required progress payments.

We think it would be premature to consider the merits of DLA's action at this time. The reason is that DLA informs us that VPS has filed a bid protest on the matter with that agency, which has not yet been resolved. Should DLA's decision be adverse to VPS' interest, the firm will have 10 working days to file a further protest on the matter with our Office, pursuant to our Bid Protest Regulations.

For your information, however, we note that page 32 of the copy of the solicitation you furnished us included a list of a number of sections of the Federal Acquisition Regulation, with a statement that only those with an "X" next to them were incorporated by reference and thus applicable. One of those sections was entitled "Notice of Progress Payments," and another, "Notice of Availability of Progress Payments exclusively for Small Business Concerns;" there is a handwritten "X" next to each of those clauses, and an annotation next to the first that progress payments "will be required." DLA has informed us that the clauses were not marked in the invitation the agency issued, that is, they did not apply to this procurement, and it was VPS itself that marked an "X" next to each.

If you need any further information, my telephone number is
(202) 275-9740.

Sincerely yours,

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

Robert M. Strong
Deputy Associate
General Counsel