



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

136166

Feberman

Office of the General Counsel

B-229842.2

June 22, 1988

Justin P. Patterson, Esq.
Assistant Solicitor
Branch of Procurement and Patents
Division of General Law
U.S. Department of the Interior
Washington, D.C. 20240

Dear Mr. Patterson:

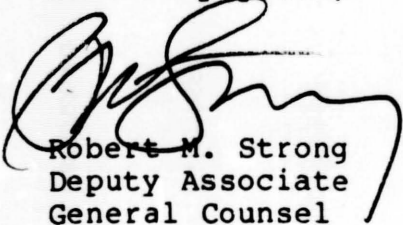
This is in response to the protest of Presentations South, Inc. (PSI), filed June 9, 1988, and your letter dated June 17, 1988. In our decision Presentations South, Inc., B-229842, Apr. 18, 1988, 88-1 CPD ¶ 374, we sustained PSI's protest under solicitation No. RFP-NARO-7-0028, issued by the Department of the Interior, and recommended that Interior conduct an additional round of negotiations. Apparently, although the protest had been filed within 10 days of the contract award, your agency did not receive notice of the filing until 30 days after performance had commenced by Creative Dimensions Group, Inc., during which time approximately one-third of the contract had been performed. As a result, your Office advised PSI that it was not feasible to implement our recommendation and offered instead to pay for PSI's costs, which led to PSI's protest of June 9.

In your correspondence of June 17, you indicate that your agency and PSI have now agreed to a settlement of \$26,200, in lieu of any other remedy. You enclose a copy of the executed settlement agreement and of correspondence from PSI's attorney requesting that our Office approve the settlement and permit withdrawal of PSI's pending protest.

Our recommendation that Interior reopen the competition was based on the record then before us, which provided no evidence that such action would not be appropriate. In view of the apparent advanced stage of performance, the potentially high termination costs, and the agreement between your agency and PSI to a negotiated settlement, our Office will not object to this disposition. However, we note that there is no legal authority that permits the recovery from the government of anticipated profits. Instrument Control Service, B-229988, Mar. 8, 1988, 88-1 CPD ¶ 340.

We are closing our file in this matter.

Sincerely yours,



Robert M. Strong
Deputy Associate
General Counsel

cc: Baker & Hostetler