



Comptroller General
of the United States

Washington, D.C. 20548

113396

Decision

Matter of: Mandex, Inc.--Entitlement to Costs

File: B-252339.4

Date: July 20, 1993

Floyd C. Stilley, Esq., for the protester.
Lori S. Chofnas, Esq., and Peter A. Parrott, Department of
the Navy, for the agency.
Christine S. Melody, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

1. Protester is not entitled to reimbursement of the costs of filing and pursuing its protests where agency corrective action--termination of awardee's contract--was taken less than 3 weeks after the filing of the first protest and 10 days after the filing of the second protest.
2. The General Accounting Office's Bid Protest Regulations do not provide for award of proposal preparation costs in cases where agency has taken corrective action.

DECISION

Mandex, Inc. requests that we declare it entitled to reimbursement of its proposal preparation costs and the costs of filing and pursuing its protests concerning request for proposals (RFP) No. N00140-92-R-AC21, issued by the Department of the Navy.

We deny the request.

In its initial protest, filed with our Office on February 12, 1993, Mandex argued that the RFP did not adequately disclose the agency's requirements for facilities and that the Navy did not properly evaluate the facilities portion of the protester's technical proposal. In its second protest, filed on February 26, Mandex contended that the awardee under the RFP was ineligible for award due to an organizational conflict of interest. On March 4, the Navy advised Mandex and our Office that it had decided to terminate the awardee's contract; consequently, we dismissed the protest as academic on March 8.

Under our Bid Protest Regulations, 4 C.F.R. § 21.6(e) (1993), we may declare a protester entitled to the costs of filing and pursuing its protest, including reasonable attorneys' fees, where the agency takes corrective action in response to the protest. We will find such an entitlement only where, based on the circumstances of the case, we find that the agency unduly delayed taking corrective action in the face of a clearly meritorious protest. Building Servs. Co., Ltd.--Entitlement to Costs, B-244135.2, Oct. 7, 1991, 91-2 CPD ¶ 312.

Here, the Navy argues that the corrective action it took was based on improprieties in the procurement unrelated to the allegations raised by Mandex in the protests. However, even if termination of the awardee's contract constituted corrective action in response to the protest, it is clear that the agency took this action promptly--less than 3 weeks after the first protest was filed, and 10 days after the second protest was filed. Under these circumstances, Mandex is not entitled to recover its protest costs. Tucson Mobilphone, Inc.--Entitlement to Costs, B-248155.2, July 22, 1992, 92-2 CPD ¶ 43.

Mandex also requests that we find it entitled to recover its proposal preparation costs. Protesters are not entitled to reimbursement of such costs in cases where agencies take corrective action. Propulsion Controls Eng'g--Entitlement to Costs, B-244619.2, Mar. 25, 1992, 92-1 CPD ¶ 306.

The request is denied.



James F. Hinchman
General Counsel