



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Malco Plastics
File: B-219886.3
Date: August 18, 1986

DIGEST

Claimant is entitled to recover undisputed amount for cost of pursuing its protest; however, request for payment of attorney fees is denied where protester presents no evidence from the attorneys involved as to the time spent on the case and the fees charged for these services.

DECISION

Malco Plastics (Malco) requests that the General Accounting Office determine the amount it is entitled to recover from the General Services Administration (GSA) for the cost of filing and pursuing its prior protest.

In Malco Plastics, B-219886, Dec. 23, 1985, 85-2 CPD ¶ 701, we sustained Malco's protest that the geographic restriction contained in request for proposals (RFP) No. FIMP-P1-00001-N, issued by General Services Administration (GSA), for the operation and maintenance of the United States Government National Credit Card Program unduly restricted competition. We also determined that Malco was entitled to recover its costs of filing and pursuing the protest. Because Malco has been unable to reach an agreement with GSA concerning the amount of its claim, Malco has requested that we determine the amount of entitlement pursuant to section 21.6(f) of our Bid Protest Regulations, 4 C.F.R. § 21.6(f) (1986).

Malco has requested reimbursement in the amount of \$1,830.89. This total includes \$1,492.50 for attorney fees, \$120 for Malco management time, \$78.14 for postage and messenger services, \$14.75 for xeroxing and \$125 for staff and secretarial services. GSA has offered to reimburse Malco \$337.89, which is the total amount claimed by Malco for all costs excluding attorney fees. With respect to Malco's claim for attorney fees, GSA notes that Malco's protest letters were not signed by counsel, that the name of the attorney that drafted the letters has not been provided, and that Malco has not submitted any invoice or receipt indicating the amounts paid for legal services. GSA argues that Malco's claim for attorney fees should be disallowed since adequate documentation has not been provided by Malco which shows that legal fees were actually incurred. In addition, GSA contends that the per hour rate charged for legal services is excessive.

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Malco submitted the following summary to support the \$1,492.50 claimed for attorney fees:

PROFESSIONAL/LEGAL SERVICES - SUMMARY

<u>Date</u>	<u>Description</u>	<u>Hours</u>	<u>Position</u>
8/1/85	Review GSA File Correspondence	1.3	Attorney
8/2/85	Telephone Discussion	.5	"
8/5/85	Review GAO Bid Protest Procedure	.6	"
8/5/85	Correspondence, Telephone Discussion	.9	"
8/7/85	Draft Protest Statement Letter	1.2	"
8/8/85	Review Draft, Telephone Discussion	.6	"
8/9/85	Draft Revised Protest Letter	.5	"
8/18/85	Telephone Discussion	.3	"
9/23/85	Review GSA Protest Response	1.7	"
9/23/85	Review GSA Case Citations	1.0*	Associate Attorney
9/24/85	Draft Protestor's Comments	2.9	Attorney
9/25/85	Telephone Discussions	.2	Attorney
9/25/85	Revise Protestor's Comments	.5	Attorney
9/26/85	Telephone discussion	.2	Attorney
	Hours Worked	<u>12.5</u>	

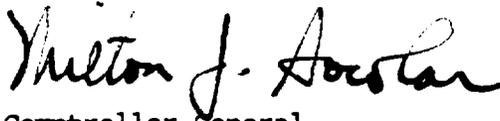
*Partner/Attorney billed at \$125/hour; Associate Attorney billed at \$55/hour.

Although Malco has not identified the attorneys that were involved, Malco has subsequently indicated the name of the law firm it retained to pursue the protest. Malco states that the legal services rendered in conjunction with the protest were not separately invoiced and Malco contends that it would be inappropriate to submit to our Office composite invoices which reflect charges for other nonrelated services. Malco states that the services of the law firm were utilized and that the summary chart submitted accurately reflects the costs which were incurred.

A protester seeking to recover the cost of pursuing its protest must submit sufficient evidence to support its monetary claim. Introl Corp., B-218339.2, Mar. 21, 1986, 65 Comp. Gen. ___, 86-1 CPD ¶ 279; Fischer-White-Rankin Contractors, Inc., B-213401.3, July 22, 1986, 86-1 CPD ¶ ___. In this case, we agree with GSA that Malco has failed to provide adequate documentation for the payment of the claimed attorney fees. In our view, where attorney fees are sought to be recovered, evidence from the attorneys involved must be submitted. Although Malco has declined to submit any invoices because those invoices also reflect charges for other services, we see no reason why that information could not have been submitted for our in camera review. Moreover, there is nothing which precludes Malco from obtaining affidavits from the attorneys involved as

to the time spent on this matter and the amounts charged for these services.^{1/} Absent any evidence, other than Malco's statements, we conclude that GSA properly rejected Malco's claim for attorney fees.

We therefore determine that Malco is entitled to recover \$337.89 as reimbursement for the cost of pursuing its protest. Malco's additional claim for the reimbursement of costs associated with pursuing this claim is denied since costs incurred in pursuing a claim are not compensable, where, as here, no statute or contract provision authorizes their recovery. Fischer-White-Rankin Contractors, Inc., B-213401.3, supra.

for 
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^{1/} In view of our finding that there is inadequate documentation for the payment of attorney fees, we need not consider GSA's remaining argument that the hourly rates charged were excessive.