



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: United Federal Services, Inc.
File: B-227984.3
Date: February 12, 1988

DIGEST

There is no basis for the award of protest costs and bid preparation costs where the protest is dismissed as academic, since a prerequisite to the award of costs under the Competition in Contracting Act is a decision on the merits of the protest.

DECISION

United Federal Services, Inc. (UFS), requests payment of the costs of filing and pursuing its protest in B-227984, including attorney's fees, and bid and proposal preparation costs. In the earlier protest, UFS protested that its failure to acknowledge amendment No. 0001 issued under invitation for bids No. N62470-87-B-6028 could be waived as a minor informality. The Naval Facilities Engineering Command agreed and awarded UFS the contract on August 26, 1987. We dismissed UFS's protest as academic on August 31, 1987.

Our authority to allow the recovery of protest costs and bid preparation costs under the Competition in Contracting Act of 1984, 31 U.S.C. § 3554(c)(1) (Supp. III 1985) and our implementing regulation, 4 C.F.R. § 21.6 (1987), is predicated on a determination by our Office that a solicitation, proposed award, or award of a contract does not comply with a statute or regulation. Systems Management American Corp., B-224229, Nov. 10, 1986, 86-2 CPD ¶ 546. Where, as here, a protest is dismissed as academic, there is no decision on the merits of the protest and thus no basis for the award of costs.

041286

Moreover, under our then existing Bid Protest Regulations, 4 C.F.R. § 21.6(e), UFS would not have been entitled to its costs even if we had decided the protest since UFS received the award.

The claim is denied.

for Seymour Egan
James F. Hinchman
General Counsel