



Comptroller General
of the United States

Washington, D.C. 20548

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Decision

Matter of: Ferguson-Williams, Inc.--Entitlement to Costs

File: B-252947.5

Date: September 15, 1993

Lynda Troutman O'Sullivan, Esq., Douglas E. Perry, Esq., and Lawrence E. Ruggiero, Esq., Fried, Frank, Harris, Shriver & Jacobson, for the protester.

John L. Formica, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protester is not entitled to award of the costs of filing and pursuing its protest where agency took corrective action 11 working days after the protest was filed.

DECISION

Ferguson-Williams, Inc., requests that our Office declare the protester entitled to recover reasonable costs of filing and pursuing its protest against the rejection of its proposal under request for proposals (RFP) No. N62467-92-R-0664, issued by the Department of the Navy.

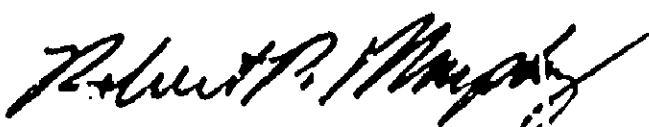
We deny the request.

The protest, filed on June 25, 1993, challenged the agency's rejection of Ferguson-Williams' proposal and proposed cancellation of the solicitation, and requested that the agency "conduct meaningful discussions with offerors in the competitive range." On July 13 the Navy informed our Office that it would open discussions. On July 14, we dismissed the protest as academic.

Ferguson-Williams requests that we declare it entitled to recover the costs of filing and pursuing its protest. Under our Bid Protest Regulations, we may declare a protester entitled to recover the reasonable costs of filing and pursuing its protest, including attorneys' fees, where the contracting agency decides to take corrective action in response to a protest. 4 C.F.R. § 21.6(e) (1993). In adopting this regulation, we did not intend to award protest costs in every case where the agency takes corrective action in response to a protest. Our intent was to award costs where the circumstances of the case reflected that the

agency unduly delayed taking corrective action in the face of a clearly meritorious protest. Pulse Elecs., Inc.--Claim for Costs, B-243828.2, Aug. 19, 1991, 91-1 CPD ¶ 164. We do not view the time taken by the agency to implement corrective action here--11 working days--as unreasonable. The agency's action, initiated early in the protest process, provides no basis for a determination that the payment of protest costs is warranted. Id.

The request for a declaration of entitlement to costs is denied.


for James F. Hinchman
General Counsel