



Comptroller General
of the United States

103313

Washington, D.C. 20548

Decision

Matter of: Power Ten, Inc.--Entitlement to Costs

File: B-258073.3

Date: February 28, 1995

DECISION

Power Ten, Inc. requests that our Office declare it entitled, pursuant to 4 C.F.R. § 21.6(e) (1994), to recover the reasonable costs of filing and pursuing its protest under Department of the Air Force request for proposals No. F04606-94-R-50232. The agency took corrective action 22 working days after Power Ten filed its initial protest and 3 working days after Power Ten filed a second protest.

We will find an entitlement to costs only where an agency unduly delayed taking corrective action in the face of a clearly meritorious protest. Oklahoma Indian Corp.--Claim for Costs, 70 Comp. Gen. 558 (1991), 91-1 CPD ¶ 558. Because in this instance the agency took prompt corrective action, there is no basis for determining that the payment of protest costs is warranted. See Mariah Assocs., Inc.--Entitlement to Costs, B-254754.3, June 6, 1994, 94-1 CPD ¶ 346; Dynair Elecs., Inc.--Entitlement to Costs, B-244290.2, Sept. 18, 1991, 91-2 CPD ¶ 260. We note in this regard that while Power Ten had filed an agency-level protest 8 working days before it filed its initial protest with our Office, the promptness of the corrective action is measured from the time the protest was filed with our Office, not from the time the protester first brought the matter to the agency's attention. See Information Sys. and Networks, Inc.--Entitlement to Costs, B-254384.2, Sept. 27, 1993, 93-2 CPD ¶ 187; PLX, Inc.--Entitlement to Costs, B-251575.2, Mar. 10, 1993, 93-1 CPD ¶ 224.

The provision in our Bid Protest Regulations providing for the possibility of an award of protest costs where an agency takes corrective action in response to a protest with our Office is intended to ensure fair treatment of protesters who make substantial investments of time and resources to pursue clearly meritorious protests in this forum, but who do not have the opportunity to recoup their costs because of agency corrective actions. R.J. Sanders, Inc.--Claim for Costs, B-245388.2, Apr. 14, 1992, 92-1 CPD ¶ 362. It is not intended to ensure the fairness of agency-level processes occurring prior to the filing of a protest with our Office.

Information Sys. and Networks, Inc.--Entitlement to Costs, supra; Purdy Corp.--Claim for Costs, B-249067.2, Aug. 13, 1992, 92-2 CPD ¶ 105; R.J. Sanders, Inc.--Claim for Costs, supra.

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

Ronald Berger

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