

# Decision

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**Matter of:** Ajanta Consulting, LLC--Costs

**File:** B-419123.6

**Date:** May 5, 2021

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Stowell B. Holcomb, Esq., Jackson Holcomb LLP, for the protester.  
Colonel Patricia S. Wiegman-Lenz, and Erika L. Whelan Retta, Esq., Department of the Air Force, for the agency.  
Heather Weiner, Esq., and Jennifer D. Westfall-McGrail, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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**DIGEST**

Request for recommendation for reimbursement of protest costs is denied where the agency did not unduly delay implementing the proposed corrective action.

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**DECISION**

Ajanta Consulting, LLC, a small business of San Antonio, Texas, requests that our Office recommend it be reimbursed the costs of filing and pursuing its protest challenging the award of multiple indefinite-delivery, indefinite-quantity (IDIQ) contracts under request for proposals (RFP) No. FA865020R4120, issued by the Department of the Air Force, to provide service support for the Air Force Research Laboratory's 711th Human Performance Wing at Wright-Patterson Air Force Base, Joint Base San Antonio, and other locations.

We deny the request.

**BACKGROUND**

Ajanta filed its protest with our Office on September 11, 2020, contesting the Air Force's award of multiple IDIQ contracts under the solicitation.<sup>1</sup> Ajanta also challenged the agency's evaluation that its proposal was ineligible for award. Specifically, Ajanta's

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<sup>1</sup> Specifically, the Air Force awarded contracts to the following eleven firms: Avosys Technology, Inc.; Bestica, Inc.; Cape Fox Federal Integrators, LLC; ERP360 Solutions Group, LLC; Eagle Integrated Services, LLC; Innovative Element, LLC; JSToogood, LLC; JYG Innovations, LLC; Kapili Services, LLC; SierTek, Ltd.; and Venesco, LLC.

protest challenged the agency's evaluation of several technical identification subfactors under the technical experience factor as unreasonable and inconsistent with solicitation terms.<sup>2</sup> Subsequently, our Office received protests from three other unsuccessful offerors challenging the Air Force's evaluation and award decisions under this solicitation, each of which was docketed separately. On September 22, prior to the agency report due date, the Air Force informed our Office that it intended to take corrective action in response to the protests. Req. for Dismissal at 1. The agency represented that it would reevaluate all offerors' technical volumes for technical identifications 4b, 4c and 5h-5l. *Id.* The agency also stated that, upon conclusion of its reevaluation, it would award additional contracts to any offeror whose proposal receives a minimum score of 2,675 points, in accordance with the terms of the solicitation. *Id.* In addition, the agency stated that it would take any other corrective action that it deemed appropriate. On October 7, our Office dismissed the protests because the Air Force's corrective action rendered the protests academic. *See, e.g., Ajanta Consulting, LLC, B-419123, Oct. 7, 2020 (unpublished decision).*<sup>3</sup>

## DISCUSSION

Ajanta argues that it should be reimbursed the costs of pursuing its protest because the Air Force, in its view, has unreasonably delayed implementing the proposed corrective actions that caused our Office to dismiss its protest as academic. Ajanta complains that the length of time the Air Force has taken to implement its corrective action--approximately four months at the time Ajanta filed this request--constitutes undue delay, and argues that its protest grounds were clearly meritorious. The Air Force disagrees that it has taken too long to implement the corrective action. The Air Force also disagrees with Ajanta's assertion that the protest was clearly meritorious.

When a procuring agency takes corrective action in response to a protest, our Office may recommend that the agency pay the protester its reasonable costs of filing and pursuing the protest. 4 C.F.R. § 21.8(e). However, our Bid Protest Regulations do not contemplate a recommendation for the reimbursement of protest costs in every case where an agency takes corrective action, but rather only where an agency unduly

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<sup>2</sup> The technical experience factor included five technical identification categories, which were then further broken into technical identification subfactors. RFP, amend. 3, section M at 2-3. The technical experience factor provided for the evaluation of an offeror's ability to meet the requirements for technical experience on an acceptable/unacceptable basis. *Id.* at 2. The RFP explained that the agency's evaluation of this factor would use a self-scoring system, based on offeror-provided substantiating documentation, to arrive at a government-verified score. *Id.* at 2-3. If the score was greater than or equal to 2,765 points, out of a total possible score of 3,040 points, and all other solicitation requirements were satisfied, the solicitation provided that the agency would make award to that offeror. *Id.*

<sup>3</sup> On October 14, one of the other unsuccessful offerors filed a protest challenging the scope of the corrective action, which we dismissed as premature on November 24. *Advent Services, LLC, B-419123.5, Nov. 24, 2020 (unpublished decision).*

delays taking corrective action in the face of a clearly meritorious protest. *Information Ventures, Inc.--Costs*, B-294580.2 *et al.*, Dec. 6, 2004, 2004 CPD ¶ 244 at 2. When an agency takes corrective action on or before the due date set for receipt of the agency report, our Office views such action as prompt and will not recommend the reimbursement of costs. *Innovative Techs., Inc.--Costs*, B-415810.3, Mar. 12, 2018, 2018 CPD ¶ 107 at 2. We have recognized that the reimbursement of protest costs may be appropriate, in some instances, where an agency does not timely implement the promised corrective action that led to the dismissal of an earlier protest. *Computer Cite--Costs*, B-402792.5, B-403769.2, Apr. 14, 2011, 2011 CPD ¶ 85 at 2-3. Our Office has also found that months-long delays do not by themselves constitute an undue delay where an agency reasonably justifies or explains those delays. *Id.* at 3; *see also J&J/BMAR Joint Venture, LLP--Costs*, B-290316.7, July 22, 2003, 2003 CPD ¶ 129 at 3 (9-month delay in the implementation of corrective action was not an undue delay).

Under the circumstances here, we do not find that the agency's actions constitute undue delay in implementing the proposed corrective action. The agency states that, over the approximately four month time frame, the Air Force has been working to implement the promised corrective action, which involves a reevaluation of all [DELETED] of the technical proposals that were submitted to the agency in response to the solicitation. Agency Resp. at 2. The agency also states that it projects that the corrective action will be completed in April 2021. *Id.* As noted previously, the Air Force also advised that, upon conclusion of its reevaluation, it will award an additional contract to any offeror whose proposal receives a minimum score of 2,675 points. Req. for Dismissal, B-419123.1, at 1; Agency Resp. at 2. We find unobjectionable the explanation provided by the Air Force for the length of time that the implementation of the corrective action has taken here. Where, as here, the record confirms that the agency acted reasonably and without undue delay in implementing the corrective action proposed, we know of no basis to recommend that the requester recover the costs of filing and pursuing its protest.<sup>4</sup>

The request that we recommend reimbursement of protest costs is denied.

Thomas H. Armstrong  
General Counsel

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<sup>4</sup> Because we find that the agency has not unduly delayed implementing its proposed corrective action, we do not address Ajanta's argument *supra* that its protest was clearly meritorious. *J&J/BMAR Joint Venture, LLP--Costs*, *supra* at 3 n.2. Both factors--undue delay and clear merit--must be present before our Office will recommend reimbursement of protest costs after corrective action. *Information Ventures, Inc.--Costs*, *supra*.