



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: HG Properties A, L.P.--Costs

File: B-277572.8

Date: September 9, 1998

Thomas W. Rochford, TRS Design & Consulting Services, for the protester.
Marion T. Cordova, Esq., Department of Agriculture, for the agency.
Guy R. Pietrovito, Esq., and James Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Claim for costs of filing and pursuing a protest at the General Accounting Office is denied where the protester failed to file with the contracting agency an adequately detailed claim within 60 working days after the protester received a copy of the decision awarding protest costs.

DECISION

HG Properties A, L.P. requests that we recommend the amount it should be reimbursed by the Forest Service, Department of Agriculture, for filing and pursuing its protest in HG Properties A, L.P., B-277572 et al., Oct. 29, 1997, 97-2 CPD ¶ 123.

In that decision, we sustained HG's protest of the award of a lease for office space in Libby, Montana, because the Forest Service unreasonably had determined that the awardee's proposed layout satisfied all solicitation requirements and was entitled to a high evaluation score, where the layout was inconsistent with the solicitation requirement that the computer room be located away from areas housing microwave equipment and radio transmitters. Id. at 5. We dismissed or denied numerous other protest allegations, including other challenges to the agency's evaluation of offers. We also recommended that HG be reimbursed for its costs of filing and pursuing the protest, "limited to the contention as to which we sustain[ed] the protest." Id. at 6-7.

On December 19, 1997, HG submitted a certified claim to the Forest Service within 60 days of receipt of our decision seeking reimbursement of \$78,674.71 for its costs of filing and pursuing the protest. The only supporting information provided with the claim was a list of individuals and firms, which the protester asserted provided work on the protest, and a total dollar amount requested for each individual and firm. It did not identify the work performed by these individuals or firms or the timeframe within which the work was performed.

On December 22, the Forest Service responded to HG's claim by requesting that HG provide a breakdown of the costs requested, including the amount and purposes of the time expended by each individual and identifying how the claimed costs related to the issue upon which we sustained the protest. On January 27, 1998, after not receiving any response from HG, the Forest Service denied the claim, noting that HG had failed to submit an adequately detailed claim to the agency within 60 days of receipt of the decision as required by our Bid Protest Regulations.

On February 6, HG responded to the Forest Service by providing information identifying for each individual the total hourly effort, hourly rate, and generally describing on a monthly basis the work done by each individual; HG now claimed \$76,796.50.¹ HG also stated that it did not segregate its protest costs to the issue upon which we sustained the protest, noting that "the scope of the protest decision (USFS's improper evaluation of offers) was not separable from the overall protest work. It is impossible to pick one or two issues from any other issue in terms of the time and cost associated with the protest." The Forest Service did not reconsider its denial of HG's claim, and HG requested that we determine the amount it should be reimbursed. The agency objects to HG's claim for costs, asserting that the protester failed to file a timely, adequately supported claim, as required, and failed to segregate costs to the issue upon which we recommended reimbursement of the protest costs.

Our Bid Protest Regulations, 4 C.F.R. § 21.8(f)(1) (1998), provide that when we find that an agency should reimburse a protester for its appropriate costs:

[t]he protester shall file its claim for costs, detailing and certifying the time expended and costs incurred, with the contracting agency within 60 days after receipt of GAO's recommendation that the agency pay the protester its costs. Failure to file the claim within that time may result in forfeiture of the protester's right to recover its costs.

Consistent with the intent of our Regulations to have protest matters resolved efficiently and quickly, the 60-day timeframe for filing claims with the contracting agency was specifically designed to avoid the piecemeal presentation of claims and to prevent unwarranted delays in resolving such claims. That timeframe affords protesters ample opportunity to submit adequately substantiated, certified claims. Test Sys. Assocs., Inc.--Claim for Costs, B-244007.7, May 3, 1993, 93-1 CPD ¶ 351 at 4. Failure to initially file an adequately supported claim in a timely manner results in forfeiture of a protester's right to recover costs, irrespective of whether

¹HG did not explain the discrepancy between the amount originally requested and that later documented.

the parties may have continued to negotiate after the 60-day period expired. Wind Gap Knitwear, Inc.--Claim for Costs, B-251411.2, B-251413.2, Aug. 30, 1995, 95-2 CPD ¶ 94 at 3. Although we recognize that the requirement for documentation may sometimes entail certain practical difficulties, the claim for reimbursement of costs must, at a minimum, identify the amount claimed for each individual expense, the purpose for which that expense was incurred, and how the expense relates to the protest. W.S. Spotswood & Sons, Inc.--Claim for Costs, B-236713.3, July 19, 1990, 90-2 CPD ¶ 50 at 3.

Here, the record shows that HG failed to file a legally sufficient cost claim within the time required. The claim initially submitted to the Forest Service did not identify the purposes for which claimed expenses were incurred or how the expenses related to the issue for which we recommended the reimbursement of HG's protest costs. Despite the Forest Service's request, HG failed to supplement its defective claim by providing the required claim information within the 60-day period, as required by our Bid Protest Regulations, 4 C.F.R. § 21.8(f)(1). Nor has HG offered any explanation justifying its failure to timely file an adequately detailed claim.

In addition, HG's cost claim improperly requested reimbursement for costs that were incurred in pursuit of protest allegations and issues for which we did not recommend reimbursement. As noted above, our recommendation that HG be reimbursed for the costs of filing and pursuing its protest was limited to the issue on which we sustained its protest; that is, we recommended that the Forest Service reimburse HG's protest costs to the extent that they were incurred in pursuing the issue that the agency unreasonably evaluated the awardee's proposed layout vis-à-vis the requirement that the computer room be located away from areas housing microwave equipment and radio transmitters. HG admits that its claim did not attempt to segregate these costs, and the information provided by HG is not sufficient to allow the segregation of costs by protest issues or allegations. While HG now argues that the reimbursement of its protest costs should not be limited to the one issue on which we sustained its protest, this is in effect a request for reconsideration of the decision that recommended the reimbursement of its protest costs, which we will not consider because our Bid Protest Regulations require that requests for reconsideration of a protest decision must be filed within 10 days after the basis for reconsideration is known or should have been known. 4 C.F.R. § 21.14(b).

The claim for costs is denied.

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