



The Comptroller General  
of the United States

Washington, D.C. 20548

SHIMAMURA

## Decision

**Matter of:** Patio Pools of Sierra Vista, Inc.--Claim for  
Costs

**File:** B-228187.4; B-228188.3

**Date:** April 12, 1989

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### DIGEST

Where protester's refusal to submit sufficient documentation supporting the amount of its claim for proposal preparation costs and the cost of filing and pursuing a protest effectively prevents the contracting agency from determining reasonableness of amount it ultimately will have to pay, General Accounting Office will not review the claim de novo.

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### DECISION

The Army Corps of Engineers requests that we determine the amount Patio Pools of Sierra Vista, Inc., is entitled to recover from the Corps for its proposal preparation costs and the cost of filing and pursuing its prior protest.

The Corps first issued solicitation No. AZ-87-33 (No. 33) on July 14, 1987, to satisfy an immediate requirement for office space at or in the vicinity of Sierra Vista, Arizona, to replace space destroyed by a fire at Fort Huachuca, Arizona. Without amending or canceling solicitation No. 33, the Corps issued solicitation No. AZ-87-34 (No. 34) on July 17, increasing the amount of space required. The protested lease ultimately was awarded under solicitation No. 34. Patio submitted proposals in response to both solicitations.

In our decision, Patio Pools of Sierra Vista, Inc., B-228187; B-228188, Dec. 31, 1987, 87-2 CPD ¶ 650, we sustained the firm's protest against award of a lease under solicitation No. 34 because the Corps improperly eliminated Patio Pool's lower-priced proposal from consideration on the basis of factors--distance from the Fort, travel time and expense, and the costs of communications services and

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automatic data processing lines--that were not in the solicitation. We held that the firm was entitled to its proposal preparation costs and the cost of filing and pursuing the protest. We affirmed that holding in Patio Pools of Sierra Vista, Inc.--Reconsideration, B-228187.2; B-228188.2, Apr. 7, 1988, 88-1 CPD ¶ 345. Patio now claims preparation costs related to the proposals it submitted in response to both solicitation Nos. 33 and 34, and protest costs.

Patio initially submitted a claim to the Corps of \$26,026, for labor (\$13,279), labor overhead (\$6,772), administrative overhead (\$3,609) and profit (\$2,366). The claim, submitted in the form of an invoice, requested payment of these amounts upon receipt by the government. No explanation or documentation in support of the amounts was provided. The Corps requested that Patio provide documentation in support of its claim, including the identity of the employees and the hours worked, time sheets and payroll records and any other relevant information to support its claim. The Corps states that despite two requests for documentation to substantiate its claim, Patio refused to provide any supporting documentation and the parties were unable to settle Patio's claim. The Corps therefore has requested that our Office determine the amount of entitlement pursuant to our Bid Protest Regulations, 4 C.F.R. § 21.6(e) (1988).

We deny Patio's claim.

In order to settle the claim, we repeatedly requested that Patio provide our Office with a certified statement of its costs along with supporting documentation. We explained that in support of its claim for direct labor costs, Patio should provide the names of employees, documentation supporting their hourly rates, the number of hours worked and a description of the tasks performed. We also advised that time cards or payroll records should be provided, if available. In addition, we requested a breakdown of overhead costs and supporting documentation including utility and other related bills for the period involved.

In response, Patio submitted a claim for \$22,806.51, which includes \$12,799.70 for direct labor costs; \$6,527.85 for labor overhead (51 percent of direct labor costs); and \$3,478.96 for administrative overhead (direct labor costs plus labor overhead multiplied by an 18 percent overhead rate). In support of its claim for direct labor costs, Patio provided a 1-1/2 page list with the following headings: date, description, man-hour units, amount and total. The descriptions of the expenditures are very brief,

and the list does not provide the identity of employees, or the hours worked and tasks performed by each employee; nor has Patio provided any documentation supporting the hourly rates or the overhead rates. Despite repeated requests from our Office, Patio failed to provide any further documentation in support of its claim.

The Corps reviewed the claim submitted to our Office and recommends that the entire claim be denied because Patio has neither reasonably explained the costs nor provided verification that the costs were actually incurred either in preparing its proposals or in pursuing its protest. We agree.

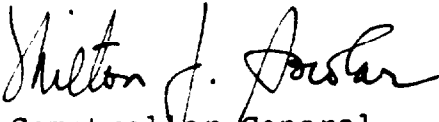
A protester seeking to recover its bid or proposal preparation costs or the cost of pursuing its protest must submit sufficient evidence to support its monetary claim. Malco Plastics, B-219886.3, Aug. 18, 1986, 86-2 CPD ¶ 193. The amount claimed may be recovered to the extent that the claim is adequately documented and is shown to be reasonable. Fischer-White-Rankin Contractors, Inc., B-213401.3, July 22, 1986, 86-2 CPD ¶ 88. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person in the preparation of its bid or proposal or in the pursuit of its protest. See Federal Acquisition Regulation § 31.201-3(a).

Here, the claim Patio submitted to the Corps consisted solely of a list of lump sum figures (entitled labor, labor overhead, administrative overhead, and profit) representing the costs for which Patio claims reimbursement. Patio's refusal to submit any documentation to the Corps in support of the amounts claimed effectively prevented the Corps from reviewing the reasonableness of the amount it ultimately would have to pay. We do not think it is appropriate for our Office to review a claim de novo when, as here, an uncooperative protester in effect deprives the contracting agency of a meaningful opportunity to review the claim, and in the future we will not review protesters' claims in these circumstances.

In any event, based on our review of the information submitted to our Office, we deny the claim since Patio clearly has not submitted sufficient support for the types of costs and amounts claimed. As noted above, Patio submitted only a brief list of costs to which it claims entitlement without explanation or documentation of the nature of the costs or their amount, despite repeated

requests and explanations by our Office as to the documentation required. We recognize that Patio incurred some costs in preparing its proposal and pursuing the protest. Nevertheless, we do not think that a protester's recovery of such costs should be based on speculation by our Office as to the reasonableness of the claim, as would be the case here given Patio's failure to provide documentation for its claim.

The claim is denied.

*for*   
Comptroller General  
of the United States