



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Ultraviolet Purification Systems, Inc.--
Determination of Bid Protest Costs

File: B-226941.5

Date: January 26, 1990

DIGEST

1. Protester is entitled to be reimbursed for costs of its president's time in pursuing protest where protester, in accordance with prior decision of General Accounting Office, sufficiently documents president's base salary.
2. Protester is not entitled to recover costs of bonus paid to president where protester does not show that bonus was paid in accordance with standards set forth in Federal Acquisition Regulation.

DECISION

Ultraviolet Purification Systems, Inc., requests that our Office determine the amount it is entitled to recover from the Bureau of Prisons (BOP), Department of Justice, for the costs of its president's time in pursuing its protest in Ultraviolet Purification Sys., Inc., B-226941, Sept. 10, 1987, 87-2 CPD ¶ 229. We earlier found that Ultraviolet would be entitled to recover protest costs of \$5,177.99, consisting of \$4,284.83 for the time of its president and \$893.16 for the time of other employees, provided Ultraviolet documented to BOP the amount of its president's base salary and that the bonus, which it paid to its president, was paid in accordance with the standards set forth in the Federal Acquisition Regulation (FAR).^{1/} Ultraviolet Purification Sys., Inc. -- Claim for Bid Protest Costs, B-226941.3, Apr. 13, 1989, 89-1 CPD ¶ 376, recon. denied, B-226941.4, June 15, 1989, 89-1 CPD ¶ 562.

^{1/} We determined that Ultraviolet was entitled to be reimbursed for 5.5 days of its president's time at a daily rate of \$779.06. The daily rate was determined by taking a pro rata share of the president's base salary, bonus, applicable taxes and benefits.

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The protester and BOP have been unable to resolve their dispute concerning Ultraviolet's substantiation of the president's salary and bonus. Specifically, BOP notes that the president's corporate pay statement indicated yearly earnings well in excess of \$200,000 per year while his Form 1040 showed wage earnings approximately \$4,000 higher. Because of this discrepancy, BOP has refused to allow any of the president's salary in the absence of an explanation. The protester has requested that our Office review its documentation and resolve its claim.

Regardless of the dispute between BOP and Ultraviolet, the documentation provided by Ultraviolet shows that the president earned substantially more than the approximate \$100,000 base annual salary that Ultraviolet claims.^{2/} Accordingly, we find that Ultraviolet in accordance with our decision has sufficiently documented the president's claimed base salary of approximately \$100,000.

However, Ultraviolet is not entitled to be reimbursed for the bonus paid to its president. In our earlier decision, we found that Ultraviolet would be entitled to recover the amount of the bonus paid to its president that related to the president's time spent pursuing the protest, provided the protester demonstrated that the bonus was paid in accordance with the FAR. Ultraviolet Purification Sys., Inc.--Claim for Bid Protest Costs, B-226941.3, supra. As pointed out in our decision of April 13, 1989, FAR § 31.205-6(f)(1) provides that bonuses are reimbursable costs if reasonable and if paid or accrued: (1) "under an agreement entered into good faith between the contractor and the employee before the services are rendered" or (2) "pursuant to an established plan or policy followed by the contractor so consistently as to imply, in effect, an agreement to make such payment, and the basis for the award is supported." Ultraviolet failed to provide any evidence demonstrating such compliance with the requirements of the FAR, and we are unwilling to speculate as to the reasonableness of this bonus payment. Therefore, we deny Ultraviolet's claim for reimbursement of the bonus. Patio Pools of Sierra Vista, Inc.--Claim for Costs, 68 Comp. Gen. 383 (1989), 89-1 CPD ¶ 374.

Based on the foregoing, Ultraviolet is entitled to recover for its protest costs \$3,432.90, consisting of \$2,539.74 for its president's time and \$893.16 for the time of its

^{2/} In its most recent request to our office, Ultraviolet acknowledged that its claimed rate for the president continues to be based upon this annual salary.

other employees in pursuing the protest. In calculating the cost of the president's time, we allow the costs of 5.5 days of the president's base salary and applicable taxes and benefits and excluded costs relating to the bonus payment which Ultraviolet did not substantiate.

for 
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