



Comptroller General  
of the United States  
Washington, D.C. 20543

144141 Bednarz

## Decision

**Matter of:** East West Research, Inc.--Claim for Costs

**File:** B-244252

**Date:** June 10, 1991

Richard Snyder for the protester,  
Christine F. Bednarz, Esq., and James A. Spangenberg, Esq.,  
Office of the General Counsel, GAO, participated in the  
preparation of the decision.

### DIGEST

There is no basis to award proposal preparation costs to a protester who never timely filed a protest at the General Accounting Office (GAO); a prerequisite to the award of costs is a decision by GAO on the merits of a protest.

### DECISION

East West Research, Inc. claims its proposal preparation costs in responding to solicitation No. DLA700-91-T-0586, issued by the Defense Logistics Agency (DLA).

We deny the claim.

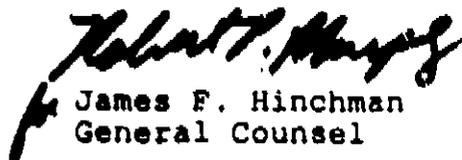
On November 9, 1990, DLA awarded purchase order No. DLA700-91-M-P039 to Precision Cable Mfg. Co., Inc. On November 25, the contracting officer learned that a quotation from East West containing an alternate offer had been located and requested that this offer be evaluated. Upon the offer's approval, the contracting officer canceled the Precision Cable award. However, DLA did not make award to East West because of an error in its automated procurement system that resulted in a resolicitation and an award to another firm.

On April 18, 1991, upon receiving notice of the foregoing, East West filed with the agency a \$50 claim for proposal preparation costs. This claim was denied by the agency on May 22, and on May 29, East West filed this claim with our Office.

Our authority to award bid and proposal preparation costs is predicated on a determination by this Office that an agency has acted contrary to statute or regulation. 31 U.S.C. § 3554(c)(1) (1988). Thus, a decision on the merits by our Office is an essential condition to a determination that the

protester is entitled to the award of costs. See Maytag Aircraft Corp.--Request for Recon.; Claim for Protest Costs, 69 Comp. Gen. 83 (1989), 89-2 CPD ¶ 457. As East West never protested this matter to our Office, there is no decision on the merits.<sup>1/</sup> We therefore have no basis for awarding protest costs to East West. See American Fiber Optics Corp.--Claim for Costs, B-238235.3, Aug. 28, 1990, 90-2 CPD ¶ 150.

The claim is denied.

  
James F. Hinchman  
General Counsel

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<sup>1/</sup> While East West characterizes this claim as a protest, East West only requests reimbursement of claimed bid preparation costs. In any case, we note that the time for filing a protest in this matter has now lapsed since East West did not file a bid protest within 10 working days of being apprised that it would not receive the award. 56 Fed. Reg. 3,759 (1991) (to be codified at 4 C.F.R. §§ 21.2(a)(2), (3)).