



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Scientific Ecology Group, Inc.--Entitlement
to Costs

File: B-249946.6

Date: March 26, 1993

Alan M. Grayson, Esq., for the protester.
Ronald E. Cone, Department of Energy, for the agency.
Richard P. Burkard, Esq., and John Brosnan, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

Protester is not entitled to award of the costs of filing and pursuing its protest against award of two contracts where agency notifies our Office prior to date for submission of its administrative report that it would terminate awardees' contracts and issue a new solicitation for the requirements.

DECISION

Scientific Ecology Group, Inc. requests that we declare it entitled to reimbursement of the reasonable costs of filing and pursuing its protest of the award of two contracts under request for proposals (RFP) No. W-254322-LW, issued on behalf of the Department of Energy (DOE) by the agency's management and operating contractor, Westinghouse Hanford Company. In its protest filed on December 9, 1992, Scientific alleged that the agency improperly evaluated proposals. By letter dated January 12, 1993, DOE advised our Office that Westinghouse was terminating the contracts and would resolicit its requirements. On January 21, we dismissed the protest as academic. Both the termination decision and the terms of the new solicitation are the subjects of pending protests (B-249946.5 and B-252553).

Under our Bid Protest Regulations, 4 C.F.R. § 21.6(e) (1992), we may declare a protester entitled to the costs of filing and pursuing its protest, including reasonable attorneys' fees, where the agency takes corrective action in

response to its protest.¹ We will find such an entitlement only where, based on the circumstances of the case, we find that the agency unduly delayed taking corrective action in the face of a clearly meritorious protest. Building Servs. Unlimited--Entitlement to Costs, B-244135.2, Oct. 7, 1991, 91-2 CPD ¶ 312.

Even if the termination of the contracts here constituted corrective action in the face of a clearly meritorious protest, the protester does not argue, nor does the record show, that the agency unduly delayed taking the action which rendered the protest academic. One week before its report on the protest was due, the agency advised our Office of its intended action. Under these circumstances, Scientific is not entitled to recover its protest costs. See Propulsion Controls Eng'g--Entitlement to Costs, B-244619.2, Mar. 25, 1992, 92-1 CPD ¶ 306.

The request is denied.


for James F. Hinchman
General Counsel

¹Scientific also requests that we declare it entitled to reimbursement of its proposal preparation costs under 4 C.F.R. § 21.6(e). The regulation, however, does not encompass such costs.