



Comptroller General
of the United States

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Washington, D.C. 20548

Decision

Matter of: ILC Dover, Inc.--Entitlement to Costs
File: B-253921.3
Date: April 21, 1995

DECISION

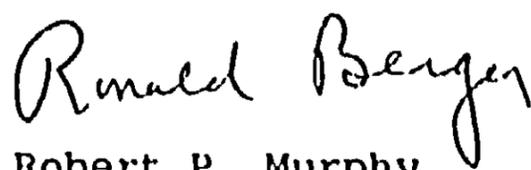
ILC Dover, Inc. requests that our Office declare it entitled to recover the reasonable costs of filing and pursuing its protest challenging the award by the Army Materiel Command of a contract to Production Products Manufacturing & Sales for collective protection equipment systems under request for proposals (RFP) No. DAAA09-92-R-0418. In its May 25, 1994, protest, ILC contended that the agency's award was inconsistent with the terms of the RFP. On July 7, in lieu of submitting a report, the agency informed our Office that it believed that the protest might have merit and it intended to take appropriate corrective action. Because this rendered the protest academic, we dismissed the protest.

Our Bid Protest Regulations provide that a protester may be entitled to reimbursement of its costs of filing and pursuing a protest where the contracting agency decides to take corrective action in response to a protest. 4 C.F.R. § 21.6(e) (1995). This provision is intended to allow the award of costs where we find that the agency unduly delayed taking corrective action in response to a clearly meritorious protest. Anderson Columbia Co., Inc., B-250530, Nov. 24, 1992, 92-2 CPD ¶ 377.

Where an agency promptly takes corrective action, we will not find the protester entitled to protest costs, regardless of any potential merit in the protest. See Locus Sys., Inc.--Entitlement to Costs, 71 Comp. Gen. 243 (1992), 92-1 CPD ¶ 177. The record in this case demonstrates that the agency investigated the matter and advised our Office, in lieu of submitting a report, of its intent to take corrective action. Such corrective action, taken early in the protest process, is precisely the kind of prompt reaction to a protest that our Regulations are designed to

encourage. Special Sys. Servs., Inc.--Entitlement to Costs, B-252210.2, June 8, 1993, 93-1 CPD ¶ 445. While it is true that the notification of intent to take corrective action was submitted several days after the day on which the report was due, the absence of a report precluded the incurrence of costs by the protester through the review of, and preparation of a response to, an agency report. Accordingly, we conclude that the award of costs is not appropriate in this case.

The request for a declaration of entitlement to costs is denied.


for Robert P. Murphy
General Counsel