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Comptroller General  
of the United States

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Washington, D.C. 20548

# Decision

**Matter of:** 4-L Construction, Inc.  
**File:** B-261296  
**Date:** June 7, 1995

## DECISION

4-L Construction, Inc. protests the award of a subcontract to Southwestern Dakota, Inc. under a solicitation issued by the Hughes Missile Systems Company for refurbishing restrooms (projects 2-93-872 and 2-93-880) at a government-owned facility managed and operated by Hughes on behalf of the Department of the Air Force.

Subsequent to the filing of this protest, the agency took corrective action. Specifically, by letter dated May 22, 1995, the Air Force directed Hughes to terminate the subcontract awarded to Southwestern Dakota and award the subcontract to 4-L, rendering the protest academic. See Steel Circle Bldg. Co., B-233055; B-233056, Feb. 10, 1989, 89-1 CPD ¶ 139. Since it is not our practice to consider academic questions, we dismiss the protest. See East West Research, Inc.--Recon., B-233623.2, Apr. 14, 1989, 89-1 CPD ¶ 379.

The protester objects to our dismissing the protest, arguing that it is entitled to recover its bid preparation costs and the costs of pursuing its protest, including attorneys' fees, because the agency delayed acting on its protest.<sup>1</sup>

As an initial matter, our Regulations do not anticipate reimbursement of bid preparation costs where, as here, the agency takes corrective action. See 4 C.F.R. § 21.6(e) (1995). Moreover, our Regulations contemplate reimbursement

<sup>1</sup>4-L also objects to our dismissing the protest on the basis that Southwestern Dakota was permitted to complete some of the work before Hughes terminated its contract, for which Hughes seeks a credit towards 4-L's contract price. We fail to see, and the protester does not explain, why applying partial credit to 4-L's price for work completed by Southwestern Dakota prior to termination of its contract should be viewed as unreasonable.

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of protest-related costs only where we find that the agency unduly delayed taking corrective action. See Dynair Elecs., Inc.--Entitlement to Costs, B-244290.2, Sept. 18, 1991, 91-2 CPD ¶ 260. Here, given that the Air Force directed Hughes to take corrective action within 2 weeks after the protest was filed, we cannot conclude that the agency unduly delayed taking such action. The fact that the Air Force initially requested that we dismiss the protest on jurisdictional grounds does not detract from the fact that the agency took prompt action. Under these circumstances, 4-L is not entitled to its protest costs. See Oklahoma Indian Corp.--Claim for Costs, 70 Comp. Gen. 558 (1991), 91-1 CPD ¶ 558.

The protest is dismissed.

  
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