



Decision

Matter of: Viderity Inc.--Costs

File: B-424422.5

Date: September 1, 2026

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William B. Blake, Esq., Department of the Interior, for the agency.
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DIGEST

Reimbursement of costs of filing and pursuing protest allegation that an agency evaluator had an apparent personal conflict of interest is recommended where the agency unduly delayed taking corrective action in the face of clearly meritorious protest ground because a reasonable agency inquiry into the initial protest allegations would have revealed facts disclosing the absence of a defensible legal position.

DECISION

Viderity Inc., a small business of Leesburg, Virginia, requests that our Office recommend that it be reimbursed for the costs associated with filing and pursuing its protest (B-424422; B-424422.2; B-424422.3), challenging the issuance of an order to Bixal Solutions Inc., a small business of Fairfax, Virginia, under request for quotations (RFQ) No. 140D0426Q0016, issued by the Department of the Interior (DOI), on behalf of the Department of Health and Human Services (HHS), for communications infrastructure support. The protester argues the protest was clearly meritorious and the agency failed to take timely corrective action in response.

We grant the request.

BACKGROUND

On April 20, 2026, Viderity filed a protest with our Office, challenging DOI's issuance of an order to Bixal Solutions, Inc. The requester alleged a personal conflict of interest tainted the agency's evaluation, as one of the agency's evaluators, whom we call Ms. X, previously served as a consultant for Bixal and advised the firm regarding the

requirement and the potential competition. Viderity also challenged the agency's consideration of price in its best-value decision. On April 22, Viderity filed a supplemental protest, challenging the agency's price realism evaluation and DOI's assessment regarding the firm's technical proposal.

On May 21, the agency produced its report, responding to Viderity's conflict of interest allegation by explaining that the contracting officer "investigated the potential conflicts as claimed by Viderity and had a conversation with Ms. [X] on the level of her involvement with Bixal." Contracting Officer's Statement (COS), B-424422 *et al.*, at 11. The contracting officer concluded that "[a]t no time was Ms. [X] employed by Bixal or served as a consultant to Bixal[.]" and that Ms. X's "communications with Bixal occurred prior to her involvement in this procurement and would not have been able to share non-public information about the procurement." *Id.* Accordingly, the agency concluded that no conflict of interest existed. On May 27, following the production of the agency's report, but before comments were submitted, Viderity filed a second supplemental protest, challenging the agency's evaluation of Bixal's and Viderity's technical proposals.

Also on May 27, the agency asked our Office to dismiss the protest as academic based on the agency's decision to take corrective action. The agency explained that information presented in its report was inaccurate, specifically, Ms. X's representation that she did not have a consulting relationship with Bixal. DOI explained the agency learned that on May 1, 2025, Ms. X "entered into a purchase order with Bixal Solutions Inc. to provide subject matter expertise and expert insights" related to the recompete of the subject requirement. Req. for Dismissal, B-424422 *et al.*, at 1. Concerning its proposed corrective action, DOI explained it would "[f]ully consider all protest grounds and allegations . . . and reperform and/or augment the technical evaluations as needed[.]" and would "[p]erform a new source selection decision[.]" *Id.* at 2. The agency also provided it would "[t]ake any further actions later determined necessary to ensure the integrity of the procurement and/or determined to be in the best interest of the Agency." *Id.* Our Office dismissed the protest as academic based on the agency's representations. *Viderity Inc.*, B-424422 *et al.*, May 29, 2026 (unpublished decision).

Viderity filed the instant request on June 12.¹

¹ Prior to filing its request for entitlement, Viderity filed a protest with our Office challenging the scope of the agency's corrective action. In this regard, Viderity argued the agency's corrective action--which included a new/modified technical evaluation, new source selection decision, and "any further actions later determined necessary to ensure the integrity of the procurement and/or determined to be in the best interest of the Agency[.]"--is unreasonably narrow because DOI has not excluded Bixal from the competition. DOI explained in its agency report that as part of its corrective action, the agency is investigating a potential personal conflict of interest concerning Bixal. We dismissed Viderity's protest as premature because the allegedly conflicted firm, Bixal, may not be the eventual awardee--either because DOI ultimately concludes that the firm

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DISCUSSION

Viderity requests that our Office recommend that DOI reimburse the firm for the reasonable costs of filing and pursuing its protest allegation concerning a potential conflict of interest concerning Ms. X.² In response, the agency argues reimbursement is unwarranted because Viderity's allegation was not clearly meritorious, where the agency's investigation is ongoing and no disqualifying conflict has been demonstrated.

When a procuring agency takes corrective action in response to a protest, our Office may recommend under 4 C.F.R. § 21.8(e) that the agency reimburse the protester its reasonable protest costs where, based on the circumstances of the case, we determine that the agency unduly delayed taking corrective action in the face of a clearly meritorious protest, thereby causing protesters to expend unnecessary time and resources to make further use of the protest process in order to obtain relief. *Pemco Aeroplex, Inc.--Recon. & Costs*, B-275587.5, B-275587.6, Oct. 14, 1997, at 5. A protest is clearly meritorious when a reasonable agency inquiry into the protest allegations would show facts disclosing the absence of a defensible legal position. *The Real Estate Ctr.--Costs*, B-274081.7, Mar. 30, 1998, at 3. Here, we conclude the instant request meets this standard.³

The record demonstrates that the agency's investigation into Viderity's alleged conflict of interest included several components, including a review of the information submitted by Viderity, a conversation with Ms. X about her involvement with Bixal, and a request (presumably to Ms. X) that Ms. X provide all her communications with Bixal. *COS*, B-424422 *et al.*, at 11. Ms. X also provided a declaration for this protest, in which she

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has an impermissible conflict of interest, or the firm is not otherwise determined to represent the best value for the agency. *Viderity Inc.*, B-424422.4, July 15, 2026 (unpublished decision).

² Viderity requests that the agency reimburse Viderity "for the reasonable costs of filing and pursuing protests under RFQ No. 9100310100R00012", but its sole focus in its request (and subsequent filings) concern the "allegations regarding Ms. [X's] conflict of interest and the agency unduly delayed taking appropriate action on these issues by filing its agency report." Req. for Costs at 1-2. We understand the instant request as seeking reimbursement only for the protest ground related to a potential conflict of interest, not Viderity's other protest allegations under this solicitation. In the alternative, we would find no basis to recommend the protester for the costs associated with the clearly severable technical and price evaluation and tradeoff challenges.

³ The agency seemingly does not contest that it unduly delayed taking corrective action. Resp. to Req. for Briefing, July 20, 2026, at 2 ("The fact that the Agency discovered the relationship after the submission of the Agency Report may confirm unreasonable delay...").

stated she was never employed by Bixal or served as a consultant to the firm. Agency Report, B-424422 *et al.*, Tab 34, Ms. X Declaration. This information led the agency to conclude that no conflict of interest tainted the procurement. Following the production of the agency's report, however, Bixal (an intervenor in the protest), on May 27, informed DOI that Bixal and Ms. X had executed a purchase order for consulting services. Agency Resp. to Req. for Briefing, July 20, 2026. On this basis, the agency opted to undertake corrective action, which DOI represents includes further investigation into the alleged conflict.

Notably absent from the agency's initial investigation was an inquiry with Bixal as to whether it had any records of a business relationship with Ms. X. Indeed, had DOI asked Bixal--the firm with whom Ms. X was alleged to have a business relationship and a party to the protest proceedings before our Office--whether it had employed or contracted with Ms. X in some capacity, it would have learned of the executed purchase order for consulting services. In turn, the agency would have likely continued its investigation into whether that relationship tainted the agency's conduct of the procurement, rather than summarily concluding that no potential conflict existed. Generally, our Office reviews a contracting officer's consideration of a potential conflict of interest for reasonableness and whether an agency has given meaningful consideration as to whether a conflict of interest exists. See *VSE Corp.*, B-404833.4, Nov. 21, 2011, at 8. Here, we conclude the agency's investigation into a potential conflict of interest was unreasonable where DOI failed to inquire with Bixal as to whether the firm had a business relationship with Ms. X.

The agency argues that Viderity's claim cannot be clearly meritorious where the investigation is ongoing and a conflict has not been demonstrably proven. Resp. to Req. for Costs at 3. That is, the agency contends that the mere presence of a relationship between Ms. X and Bixal does not conclusively demonstrate that Ms. X somehow exerted improper influence in the procurement. *Id.* In the absence of such a finding, DOI avers Viderity's allegation cannot be deemed clearly meritorious.

However, such showing is not required where the agency's inadequate initial investigation led it to file an agency report categorically denying even the appearance of a conflict of interest. Our inquiry for determining whether a protest allegation is clearly meritorious is whether a reasonable agency inquiry into the protester's allegations would reveal facts showing the absence of a defensible legal position. *Triple Canopy, Inc.--Costs*, B-310566.9, B-400437.4, Mar. 25, 2009, at 3. Here, as explained above, a reasonable inquiry into Viderity's allegations would have included communication with Bixal regarding its business relationship with Ms. X. Had DOI made such an inquiry, and learned of the purchase order between Ms. X and Bixal, the agency would not have taken the legal position staked out in its report, namely, that because no business relationship existed between Ms. X and Bixal, no conflict existed. In turn, Viderity would not have had to expend the time and resources to make further use of the protest process in seeking relief.

RECOMMENDATION

We recommend that Viderity be reimbursed the costs associated with filing and pursuing its protest allegation regarding a potential conflict of interest, including reasonable attorneys' fees. Viderity should submit its certified claim, detailing the time and costs incurred, directly to the agency within 60 days of their receipt of this decision. Bid Protest Regulations, 4 C.F.R. § 21.8(f)(1).

The request is granted.

Edda Emmanuelli Perez
General Counsel