



Decision

Matter of: INTELiTEAMS, Inc.--Costs

File: B-418123.2; B-418180.2

Date: February 25, 2020

Jerry Mannes II, INTELiTEAMS, Inc., for the protester.
Michael Giordano, Esq., Department of Justice, for the agency.
Robert T. Wu, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Requests for recommendation that protester be reimbursed costs of filing and pursuing protests challenging award of two orders issued under a blanket purchase agreement are denied where the protester has not shown the protests were clearly meritorious, and the agency did not unduly delay taking corrective action.

DECISION

INTELiTEAMS, Inc., a small business of Holland, Michigan, requests that our Office recommend that it be reimbursed the costs of filing and pursuing its protests challenging the issuance of two task orders by the Department of Justice, Federal Bureau of Investigation (FBI), under the solutions for administrative and program services blanket purchase agreement: one task order to Intellware Systems, Inc., of Fredericksburg, Virginia, under request for quotations (RFQ) No. DJF-19-0010-PR-0001277 (RFQ No. 1277) for support services, which our Office docketed as B-418123; and one task order to Koniag Technology Solutions, of Chantilly, Virginia, under RFQ No. 15F067-19-Q-0000075 (RFQ No. 0075) for support services, which our Office docketed as B-418180.

We deny the requests.

BACKGROUND

The FBI issued RFQ No. 1277 to obtain highly skilled professional support to assist the FBI's Intelligence Branch, Office of Private Sector, in its engagement efforts, research support and office management. Protest (B-418123), enclosure 2, RFQ, at 3. The RFQ was issued on a best-value tradeoff basis considering the following evaluation factors:

technical/management plan, past performance, and price. Id. at 13. The agency issued RFQ No. 0075 to obtain contractor support for critical facilities operations services required at the agency's terrorist screening center in Vienna, VA. Protest (B-418180), enclosure 1, RFQ, at 4. The RFQ was also issued on a best-value tradeoff basis considering staffing plan, experience, and price as evaluation factors. Id. at 34.

INTELiTEAMS submitted timely quotations in response to both solicitations. Protest (B-418123), at 1; Protest (B-418180), at 2. After evaluation of quotations, the agency issued a task order to Intellware Systems, Inc. under RFQ No. 1277, and a task order to Koniag Technology Solutions under RFQ No. 0075. Id. INTELiTEAMS protested both task order awards to our Office, challenging the agency's evaluation of INTELiTEAMS' proposal, and both of the best-value decisions. See id.

On November 6, 2019, the due date for the agency report answering the B-418123 protest, the agency informed our Office that it was taking corrective action by reevaluating quotations and making a new best-value determination. See Notice of Corrective Action (B-418123). On November 13, we dismissed the protest because the agency's corrective action rendered it academic. See INTELiTEAMS, Inc., B-418123, Nov. 13, 2019 (unpublished decision).

Also on November 13, one day prior to the due date for the agency report in the B-418180 protest, the agency informed our Office that it intended to take similar corrective action in regards to the B-418180 protest. On November 14, we similarly dismissed the second protest as academic. See INTELiTEAMS, Inc., B-418180, Nov. 14, 2019 (unpublished decision). INTELiTEAMS now requests our Office's recommendation that it be reimbursed the costs of filing and pursuing its protests following the dismissal of its protests.

DISCUSSION

INTELiTEAMS requests that our Office recommend that it be reimbursed the costs associated with filing and pursuing the two protests. Protester's Request (B-418123.2) at 1; Protester's Request (B-418180.2) at 1. The protester asserts in both instances, that it has been over a month since the agency stated that it was going to take corrective action, yet the agency has not issued a new best-value award decision. Comments (B-418123.2) at 2; Comments (B-418180.2) at 2. According to INTELiTEAMS, the agency has unduly delayed taking corrective action in the face of its clearly meritorious protests, thus entitling it to costs. Id.

The agency responds to both requests for costs in similar fashion, arguing in both instances that the agency did not unduly delay corrective action as it notified our Office of its intent, either on the day the agency report was due (B-418123), or on the day prior to the due date for the agency report (B-418180). Agency Response (B-418123.2) at 1; Agency Response (B-418180) at 1. According to the FBI, when an agency takes corrective action prior to the due date set for receipt of the agency report, our Office

generally views such action as prompt, and we will not recommend the reimbursement of costs. Id. We agree.

When a procuring agency takes corrective action in response to a protest, our Office may recommend reimbursement of protest costs if, 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 the protester to expend unnecessary time and resources to make further use of the protest process in order to obtain relief. Bid Protest Regulations, 4 C.F.R. § 21.8(e); AAR Aircraft Servs.--Costs, B-291670.6, May 12, 2003, 2003 CPD ¶ 100 at 5. We generally view an agency's action as prompt, that is, the agency did not unduly delay taking corrective action, where the corrective action is taken prior to the due date and time for submission of the agency report. LGS Innovations LLC, B-405932.3, Apr. 26, 2012, 2012 CPD ¶ 147 at 2.

Here, as the agency asserts, it notified our office that it was taking corrective action in both matters either on or prior to the due date set for submission of the agency report. In B-418123, the agency notified our office of its intent to take corrective action on the date set for submission of the agency report, but before the time that the agency report was due. In B-418180, the agency notified our Office the day prior to the date set for receipt of the agency report. As such, we conclude that the agency's decision to take corrective action in both instances was not unduly delayed, such that a recommendation that the agency reimburse the protesters costs is not warranted.¹ LGS Innovations LLC, supra.

The requests that we recommend reimbursement of protest costs are denied.

Thomas H. Armstrong
General Counsel

¹ Moreover, while the protester argues in its comments that the agency has unduly delayed implementing corrective action, this allegation fails to allege a cognizable basis of protest. Comments at 2-3. In this regard, although INTELiTEAMS objected to the length of time that it has taken the agency to complete its proposed corrective action, the protester has not identified any violation of procurement law or regulation by the agency. Computer Cite, B-412162.3, July 15, 2016, 2016 CPD ¶ 186 at 4 (dismissing protest alleging agency unreasonably delayed completing corrective action, where protester failed to allege improper agency action or violation of law or regulation). In this regard, the protester has not alleged that the agency was required to have completed its corrective action by an earlier date, or asserted that any alleged delay is contrary to law or regulation, or even alleged any bad faith by agency personnel. Without more, INTELiTEAMS' allegation does not include sufficient information to establish that the FBI, in this instance, violated applicable law or regulation. Computer Cite, supra.