



United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Palmetto Isotopes

File: B-410268.2

Date: January 5, 2015

Tenley A. Carp, Esq., David Felt, Esq., and Eric D. Olson, Esq., Arnall Golden Gregory LLP, for the protester.
Glenn G. Wolcott, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Reimbursement of costs is not recommended where the agency did not unduly delay taking corrective action.

DECISION

Palmetto Isotopes requests that our Office recommend reimbursement of Palmetto's costs for filing a protest challenging the Department of Veterans Affairs' sole source extension of contract No. VA24714P3162 for certain radiopharmaceutical and non-radiopharmaceutical items.

We deny the request.

Palmetto filed its protest on August 21, 2014, alleging that the contract extension was improper. On August 29, the agency advised this Office, and Palmetto, that it was taking corrective action, stating that the challenged contract would be terminated. Thereafter, the agency posted a solicitation for the requirements to the Federal Business Opportunities (FedBizOpps) website. On September 9, we dismissed Palmetto's protest as academic.

Where a procuring agency takes corrective action in response to a protest, we may recommend that it reimburse the protester its protest costs if we determine that the agency unduly delayed taking corrective action in the face of a clearly meritorious protest. See, e.g., Taylor Consultants, Inc.--Costs, B-400324.3, Feb. 2, 2009, 2009 CPD ¶ 37 at 3. As a general rule, if an agency takes corrective action on or before the due date for its protest report, we regard such action as prompt and decline to

favorably consider a request for cost reimbursement. See, e.g., J.A. Jones Mgmt. Servs., Inc., -- Costs, B-284909.4, July 31, 2000, 2000 CPD ¶ 123 at 4.

Here, there is no basis for Palmetto to assert that the agency delayed taking corrective action. Indeed, Palmetto's reimbursement request expressly acknowledges that the action was taken "[o]nly a week after Palmetto filed its protest," and further "agrees that the Agency's corrective action in response to the protest renders the substance of the protest 'academic' and appropriate for dismissal." Palmetto Reimbursement Request at 1-2. Since, as noted above, our Office will recommend reimbursement of protest costs only where an agency has unduly delayed taking corrective action, our recommendation of cost reimbursement is not appropriate here.

The request is denied.

Susan A. Poling
General Counsel