



United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Premiums & Specialties, Inc.--Costs

File: B-410247.2

Date: June 5, 2015

Bob Perkins, for the protester.

Roy E. Potter, Esq., Government Publishing Office, for the agency.

Paul N. Wengert, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protester's claim for reimbursement of its costs of preparing and filing its protest, and its costs of preparing and submitting its quotation is denied where the claim is not adequately documented.

DECISION

Premiums & Specialties, Inc. (P&S), of Cherry Hill, New Jersey, a small business, requests that our Office recommend the amount to be reimbursed by the Government Publishing Office (GPO) to P&S for the costs of preparing its quotation, and for filing and pursuing its protest in Premiums & Specialties, Inc., B-410247, Nov. 13, 2014, 2014 CPD ¶ 340. In that decision, we sustained P&S's protest of the GPO's issuance of a purchase order to KD8 Enterprises, LLC, of Centreville, Utah, under request for quotations (RFQ) No. 386-162 (known as "Jacket: # 386-162"), for 75,000 imprinted pens.

We deny the request.

In our decision sustaining the protest, we found that the GPO had improperly rejected P&S's quotation on a basis not stated in the RFQ. We recommended that, if GPO could not terminate the purchase order issued to another vendor, then GPO should reimburse P&S for the cost of preparing and submitting its quotation, and costs associated with filing and pursuing its protest, including reasonable attorneys' fees (if any). Id. at 5. Our decision further informed the firm that its certified claim for costs, detailing the time expended and costs incurred, must be submitted to the agency within 60 days after receipt of our decision. Id.

On January 12, 2015, P&S submitted a letter to GPO, requesting payment of \$3,050. The request was not certified, and the costs consisted of three items.

First, P&S sought reimbursement based on a billing statement from its outside counsel for 3 hours of attorney time at \$300 per hour. Protester's Cost Request, Billing Statement from Attorney to Protester, Jan. 5, 2015, at 1. The billing statement was dated January 5, 2015, nearly two months after our decision was issued. Other than designating the 3 hours as being for a "GPO Protest," and indicating only that the time, as a whole, was for telephone calls with P&S, a meeting with P&S, and "review and consultation," the billing statement did not indicate that the services were provided regarding pursuing this protest at our Office, contained only a general description of the services rendered, and did not provide the dates when the hours were incurred. Id.

Second, P&S requested reimbursement of \$150 for 6 hours of clerical support by a P&S employee at \$25 per hour. The request did not indicate the basis for the hourly rate, the dates on which the hours were accrued, and did not provide any description of the services performed on particular dates. The request simply stated that "[e]nclosed is our response in accord with costs associated with this protest," and then listed an employee's name, followed by "clerical assistance 6 Hours @ \$25.00 = \$150.00." Letter from P&S Owner to Counsel for GPO, Jan. 12, 2015, at 1.

Finally, P&S requested reimbursement for 40 hours of time from P&S's owner, at \$50 per hour.¹ Id. The submission made reference to effort spent researching protest issues, telephone calls, and drafting protest submissions. However, neither the claim provided to GPO nor the subsequent submission to our Office provided a basis for the hourly rate, or stated the dates on which hours were accrued, and both provided no description of the services performed on particular dates. Protester's Cost Request, Letter from Protester to GPO, Jan. 12, 2015, at 1.

On January 22, the GPO denied P&S's claim, stating that it lacked sufficient detail and was not certified. Protester's Cost Request, attach. 1, E-mail from Counsel for GPO to Protester, Jan. 22, 2015, at 1. On February 20, P&S filed this request with our Office, seeking a recommendation that the GPO pay the claim, which P&S then certified. Before our Office, the GPO again stated that it had denied the claim after concluding that the claim was not certified and that it generally "failed to provide adequate specificity." E-mail from Counsel for GPO to GAO, Feb. 23, 2015, at 1.

A protester seeking to recover the costs of pursuing its protest must submit sufficient evidence to support its monetary claim. The amount claimed may be recovered to the extent that the claim is adequately documented and is shown to be reasonable.

¹ In its later submission of the claim to our Office, P&S divided the time: 1.5 hours for bid preparation, and 38.5 hours for the protest. P&S Request for Costs, at 1.

A claim is reasonable, if, in its nature and amount, it does not exceed that which would be incurred by a prudent person in pursuit of the protest. Commerce Land Title of San Antonio, Inc.--Claim for Costs, B-249969.2, Oct. 11, 1994, 94-2 CPD ¶ 131 at 2.

At a minimum, claims for reimbursement must identify and support the amounts claimed for each individual expense (including cost data to support the calculation of claimed hourly rates for employees), the purpose for which that expense was incurred, and how the expense relates to the protest before our Office. International Program Group, Inc.--Claim for Costs, B-400278.4; B-400308.4, June 22, 2009, 2009 CPD ¶ 128 at 3. The burden is on the protester to submit sufficient evidence to support its claim; that burden is not met by general, inadequately-supported statements that particular costs have been incurred. Aztec Dev. Co.--Costs, B-270275.2, Feb. 13, 1997, 97-1 CPD ¶ 73 at 2. Failure to file an adequately-supported claim in a timely manner will result in the loss of the protester's right to recover costs. Wind Gap Knitwear, Inc.--Claim for Costs, B-251411.2; B-251413.2, Aug. 30, 1995, 95-2 CPD ¶ 94 at 3 (claim that lacks detail is denied). Moreover, as noted above, in filing its claim with the agency, the protest is required to detail and certify the time expended and costs incurred. 4 C.F.R. § 21.8(f)(1).

We do not doubt that the protester spent significant time in preparing the protest, responding to the agency report, participating in the telephone hearing, and preparing post-hearing comments. Nevertheless, the claim here is not adequately supported. It does not set forth the dates and efforts of the individuals involved (P&S's owner, its clerical support employee, or its outside legal counsel).² By failing to link efforts to dates, our Office cannot ensure that the costs relate to this protest and are properly reimbursable.

The claim also does not provide cost data to support the calculation of the hourly rates for either the clerical employee or the firm's owner.³ Although we recognize that the requirement for documentation may sometimes entail certain practical difficulties, we do not consider it unreasonable to require a protester to document in some detail the amount and purposes of its employees' claimed efforts, and to establish that the claimed hourly rates reflect the employees' actual rates of

² In general, a brief description of the services rendered for the hours is sufficient support for a claim. See Data Based Decisions, Inc.--Claim for Costs, B-232663.3, Dec. 11, 1989, 89-2 CPD ¶ 538 at 3-4 (brief descriptions in attorney bills were proper; no requirement to break down descriptions to identify time spent on each specific task).

³ As noted above, P&S certified the claim submitted to our Office, thus overcoming that aspect of the GPO's objection. 4 C.F.R. § 21.8(f)(1); see Diverco, Inc.--Claim for Costs, B-240639.5, May 21, 1992, 92-1 CPD ¶ 460 at 3 n.3.

compensation plus reasonable overhead and fringe benefits. John Peeples--Claim for Costs, B-233167.2, Aug. 5, 1991, 91-2 CPD ¶ 125 at 3.

Taking the record as a whole, we cannot recommend that the GPO reimburse the claimed amounts sought by P&S because the claim does not meet the established minimum standards.

The request is denied.

Susan A. Poling
General Counsel