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## Decision

**Matter of:** Clean Team Janitorial Service, Inc.--Costs

**File:** B-421822.2

**Date:** December 6, 2023

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### DIGEST

Request for recommendation of reimbursement of the costs of filing and pursuing prior protests is denied where the agency did not unduly delay taking corrective action in response to a clearly meritorious protest.

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### DECISION

Clean Team Janitorial Service, Inc. (Clean Team), a small business of Washington, District of Columbia, requests that our Office recommend that it be reimbursed for the costs of filing and pursuing its protests challenging the award of contract Nos. 70US0922C70092662 and 70US0923C70093108, to ICMC Alliance, LLC (ICMC), a small business of Beltsville, Maryland. The contracts were issued on sole-source bases by the Department of Homeland Security, United States Secret Service, for janitorial services.

We deny the request.

### BACKGROUND

The instant request involves three underlying protests dismissed by our Office after the agency took corrective action in each one. Clean Team requests a recommendation that it be reimbursed for filing and pursuing the three protests. Below, we provide background information on the three protests before addressing Clean Team's request.

## Clean Team's First Protest

On September 28, 2017, the Secret Service issued to Clean Team a contract under the 8(a) program for the provision of janitorial services at the James J. Rowley Training Center in Laurel, Maryland.<sup>1</sup> Protest (B-421157) at 4; Protest (B-421157), exh. 1, Clean Team Contract at 2-3. This contract was valued at \$3,541,175 and had an initial 1-year period of performance, which was subsequently extended to September 20, 2022.<sup>2</sup> Protest (B-421157) at 4.

On August 9, 2022, Clean Team reported to the contracting officer a possible violation of the Procurement Integrity Act (PIA).<sup>3</sup> *Id.* Clean Team alleged that during performance of its janitorial services contract, a government official asked Clean Team employees to share certain details of the firm's approach to the janitorial services work, including the salaries paid to certain employees. *Id.* at 4-5. Clean Team asserted that the government official also informed Clean Team employees that a new company was going to take over the janitorial contract. *Id.* at 5. Based on these alleged interactions, Clean Team requested an investigation to determine whether the government official had improperly disclosed outside the government proprietary information learned from the Clean Team employees. Protest (B-421157), exh. 2, Letter to Contracting Officer at 5-6. On August 11, the contracting officer confirmed receipt of Clean Team's allegation of a possible PIA violation. Protest (B-421157), exh. 3, Email from Agency to Clean Team, Aug. 11, 2022.

On September 27, the agency awarded contract No. 70US0922C70092662 (ICMC's first contract) to ICMC on a sole-source basis. Protest (B-421157), exh. 4, ICMC Award. The award notice described the requirement as janitorial services in Laurel, Maryland. *Id.* at 3. The contract included a 1-year base period and option periods which could extend the period of performance to September 27, 2027. *Id.* at 2. The value of the contract including the base period and option periods was \$4,130,119. *Id.* Relevant to Clean Team's protest, the award notice indicated that the award was made

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<sup>1</sup> Section 8(a) of the Small Business Act, 15 U.S.C. § 637(a), authorizes the Small Business Administration to enter into contracts with government agencies and to arrange for performance through subcontracts with socially and economically disadvantaged small business concerns. See 13 C.F.R. § 124.501(a). This program is commonly referred to as the 8(a) program.

<sup>2</sup> The agency confirms that Clean Team has maintained an interim or "bridge" contract for this requirement through the pendency of the protests. Resp. to Req. for Costs at 3.

<sup>3</sup> The PIA, 41 U.S.C. §§ 2101-2107, is implemented by Federal Acquisition Regulation (FAR) section 3.104. Relevant here, it prevents the unauthorized disclosure of contractor bid or proposal information. 41 U.S.C. § 2102(a); FAR 3.104-4.

using other than full and open competition in accordance with FAR subsection 6.302-5(a)(2)(i), and that no set-aside was used.<sup>4</sup> *Id.* at 3.

On October 7, Clean Team filed a protest challenging the award of ICMC's first contract. In its protest, Clean Team raised three protest grounds. First, Clean Team alleged that ICMC's first contract was the follow-on contract to Clean Team's janitorial services contract. Protest (B-421157) at 7-16. Clean Team argued that in making a sole-source award to ICMC, the Secret Service unlawfully removed the janitorial services requirement from the 8(a) program or otherwise lacked authority to make an award to ICMC under the procedures of FAR subsection 6.302-5.<sup>5</sup> *Id.* Second, the protester argued that the Secret Service failed to properly investigate the alleged PIA violation. *Id.* at 16-24. This was relevant because Clean Team hypothesized that the agency had improperly disclosed Clean Team's proprietary information to ICMC, giving ICMC an unfair advantage over Clean Team for the follow-on janitorial services contract. *Id.* at 21. Third, Clean Team asserted that the agency had "circumvented the need for a competitive 8(a) procurement by estimating and awarding the requirement at an amount slightly below the triggering dollar value threshold of \$4.5 million." *Id.* at 21-22 (citing 13 C.F.R. § 124.506(a)(2)(ii)).<sup>6</sup> The agency's report responding to the protest was due on November 7.

The agency filed a notice of corrective action on October 14. In its notice, the agency stated that it intended to cancel the award to ICMC and resolicit the janitorial services requirement as a set-aside for 8(a) concerns. Notice of Corrective Action (B-421157). Based on the agency's proposed corrective action, our Office dismissed the protest as academic. *Clean Team Janitorial Servs., Inc.*, B-421157, Oct. 20, 2022 (unpublished decision).

### Clean Team's Second Protest

Following corrective action, the Secret Service notified Clean Team that the agency had confirmed the first award to ICMC. Protest (B-421157.2) at 1. On January 30, 2023, Clean Team filed a second protest challenging the decision to maintain ICMC's first contract. *Id.*

In its second protest, Clean Team raised the following challenges. First, Clean Team argued that the agency failed to perform the proposed corrective action to compete the

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<sup>4</sup> FAR subsection 6.302-5 states that full and open competition need not be provided for when a statute expressly authorizes or requires that the acquisition be made through another agency or from a specified source. FAR 6.302-5(a)(2)(i).

<sup>5</sup> The award notice did not make clear whether the sole-source award to ICMC had been made under the 8(a) program. Protest (B-421157), exh. 4, ICMC Award.

<sup>6</sup> As relevant to this argument, 13 C.F.R. § 124.506(a)(2)(ii) requires certain contracts to be competed among eligible 8(a) participants if the anticipated award price of the contract will exceed \$4,500,000. 13 C.F.R. § 124.506(a)(2)(ii).

contact among 8(a) vendors. *Id.* at 8-11. Second, Clean Team argued that the agency failed to properly investigate the alleged PIA violation. *Id.* at 11-19. Third, Clean Team argued that the agency acted without legal authority when it issued a sole-source contract to ICMC. *Id.* at 19-29. Fourth, Clean Team argued that the agency improperly valued ICMC's contract at less than \$4.5 million to avoid issuing a competitive solicitation. *Id.* at 17. Finally, Clean Team argued that ICMC was ineligible for award because--as alleged by Clean Team--ICMC was not a certified 8(a) vendor at the time of proposal submission and had failed to make the proper representations and certifications in its system for award management (SAM) profile.<sup>7</sup> *Id.* at 29-32. The agency report was due on March 1.

On February 16, the agency filed a request for dismissal. In short, the agency argued that the protest should be dismissed because Clean Team was not an interested party to challenge the award, and that Clean Team's protest grounds either failed to state valid bases of protest or were untimely.<sup>8</sup> Req. for Dismissal (B-421157.2) at 1.

For example, the Secret Service argued that Clean Team's challenge to the implementation of corrective action failed to state a valid basis of protest. *Id.* at 6-7. According to the agency, its proposed corrective action in response to the first protest was based on a factual mistake. *Id.* In this regard, the agency explained that in reviewing Clean Team's first protest, it was unable to verify ICMC's 8(a) status, and therefore the agency mistakenly believed that it had erroneously awarded a contract under the 8(a) program to an ineligible entity. *Id.* at 6. Following the dismissal of the first protest, the agency received confirmation of ICMC's status as an approved 8(a) vendor, however, rendering its promise of corrective action unnecessary. *Id.* The agency asked our Office to dismiss the challenge to the implementation of the announced corrective action because "[c]ontinuing with an erroneous corrective action would have been more prejudicial to the procurement process and would have resulted in additional inefficiencies." *Id.* at 7.

Relatedly, the agency explained that ICMC's award was not publicized as issued under the 8(a) program due to a technical error. *Id.* at 9. The agency stated that the relevant website would not allow contracting personnel to "make the award with the 8(a) set-aside selected" but that the agency would remedy the issue "as soon as the protest [was] resolved." *Id.* In other words, the janitorial services contract was not removed from the 8(a) program when the agency made award to ICMC. See *id.*

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<sup>7</sup> SAM is the governmentwide point of entry and the official government system for entity information to include information on contractor representations and certifications. FAR 2.101; <https://www.sam.gov> (last visited Oct. 31, 2023).

<sup>8</sup> For context and background, our decision provides a discussion on some of the dismissal bases; however, discussion of each basis is not necessary to resolve the instant request.

Clean Team filed a detailed response to the agency's request for dismissal. In sum, Clean Team countered that it was an interested party to challenge the award and that the request for dismissal amounted to a request for "a premature ruling on the substantive merits of the Protest[.]" Resp. to Req. for Dismissal (B-421157.2) at 1.

We agreed with the protester, and on February 24, our Office declined the request for dismissal in full. In doing so, we stated: "Based on our review, the request for dismissal raises merits-based arguments which are not appropriate for dismissal at this time. In its agency report, the agency may re-raise any or all of the arguments made in its request for dismissal." GAO Resp. to Req. for Dismissal (B-421157.2).

That same day, the agency filed a notice of corrective action. The notice of corrective action stated: "Due to a lack of contemporaneous documentation, the Secret Service intends to terminate the award and restart the procurement process." Notice of Corrective Action (B-421157.2).

Both the protester and ICMC (as intervenor) objected to the agency's corrective action, with the former asking for clarification about what the agency intended to do and the latter maintaining that the agency should defend the award decision.<sup>9</sup> *Clean Team Janitorial Servs., Inc.*, B-421157.2, Mar. 6, 2023 (unpublished decision). Notwithstanding those objections, we found the agency's proposed corrective action sufficient to render the protest academic. *Id.* In that respect, due to the agency's intent to terminate the award and restart the procurement process, we found that there was no longer an award or a procurement to challenge. *Id.* Accordingly, we dismissed the protest. *Id.*

### Clean Team's Third Protest

On July 18, Clean Team filed its third and final protest.<sup>10</sup> That protest challenged a new award to ICMC, contract No. 70US0923C70093108 (ICMC's second contract), issued as a sole-source contract under the 8(a) program. Protest (B-421822); Protest (B-421822), exh. 6, ICMC July 2023 Award.

Clean Team's third protest raised two challenges. First, Clean Team argued that the agency failed to properly investigate the alleged PIA violation reported in August of 2022. Protest (B-421822) at 8-17. Second, Clean Team argued that the agency violated a regulation by allegedly reducing the value of ICMC's second contract to avoid issuing a competitive solicitation. *Id.* at 17-19 (citing 13 C.F.R. § 124.506). The agency report was due on August 17.

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<sup>9</sup> ICMC intervened in the first and the second protests. The third protest did not have an intervenor.

<sup>10</sup> The protest was filed on July 18. On July 24, Clean Team filed an errata correcting "minor factual issues[.]" Protest (B-421822) at 1 n.1. Our decision cites to the errata.

On August 9, the agency filed a notice of corrective action. The agency stated that “[d]ue to a lack of contemporaneous documentation, the Secret Service intends to terminate the award and re-award.” Notice of Corrective Action (B-421822).

The following day, Clean Team objected to the proposed corrective action. In its objection, Clean Team requested clarification on the proposed corrective action and that Clean Team be reimbursed for the costs of filing and pursuing its three protests. Objection to Corrective Action (B-421822) at 1-3. Following the objection, our Office asked for further briefing from the parties.

On August 11, the agency responded to Clean Team’s objection. The agency argued that it properly awarded ICMC’s second contract, but it did not have sufficient documentation to support its award decision. Agency Resp. to Objection (B-421822) at 1. The agency further explained that due to an oversight, the award was made without legal review, resulting in an insufficient record. *Id.* at 2. The agency stated that it had already terminated the award to ICMC and was “working on a new award while ensuring there [will be] contemporaneous documentation” as required. *Id.* Finally, the agency contested Clean Team’s request for reimbursement of costs, arguing that in response to each protest, the agency’s corrective action was prompt and therefore the award of costs was inappropriate. *Id.* In response, Clean Team asked our Office to decline to dismiss the protest as academic and to issue a recommendation that it be reimbursed for the costs of filing and pursuing all three of its protests. Clean Team Resp. to Agency (B-421822) at 1-3.

We dismissed the protest as academic. *Clean Team Janitorial Services, Inc.*, B-421822, Aug. 17, 2023 (unpublished decision). We found that due to the termination of ICMC’s second contract, there was no longer an award to protest. *Id.* at 2. Further, we stated that, in accordance with our regulations, Clean Team was free to file a protest challenging the agency’s corrective action, and to file a request for a recommendation for reimbursement of costs. *Id.* at 2 n.4. On August 28, Clean Team filed the instant request with our Office.

## DISCUSSION

Clean Team asks our Office to recommend reimbursement for the costs of filing and pursuing its three underlying protests. Req. for Costs at 3-5. Clean Team contends that the Secret Service twice failed to implement its announced corrective action causing Clean Team to spend unnecessary resources pursuing relief.<sup>11</sup> *Id.* at 1. The

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<sup>11</sup> In its comments on the agency’s response to the request, Clean Team argues that it should be reimbursed the costs of filing and pursuing a protest ground alleging that the agency’s award decisions were insufficiently documented. Comments at 4-5. This argument was not included in Clean Team’s initial request for costs. See Req. for Costs at 3-5. To the extent that it was included as a standalone protest ground in the underlying protests, Clean Team’s comments do not include citations directing us to

(continued...)

agency's position is that Clean Team should not be reimbursed for the costs of filing and pursuing its protests because none of its protests were clearly meritorious. As discussed below, we deny the request.

Where a procuring agency takes corrective action in response to a protest, our Office may recommend reimbursement of protest costs. 4 C.F.R. § 21.8(e). We will recommend reimbursement of costs if 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. *Bowhead Mission Sols., LLC--Costs*, B-419385.7, July 14, 2022, 2022 CPD ¶ 183 at 4.

Where an agency takes corrective action by the due date of the agency report, we generally regard the action as prompt and will not recommend reimbursement of protest costs. *Abhe & Svoboda, Inc.--Costs*, B-412504.2, Apr. 1, 2016, 2016 CPD ¶ 99 at 3; *MacroUSA Corp.--Costs*, B-408444.2, Feb. 11, 2014, 2014 CPD ¶ 65 at 2. Notwithstanding this general rule, there may be rare circumstances in which the agency's delay in taking corrective action requires a protester to make further use of the protest process to obtain relief, even where no agency report was filed. See e.g., *Amaze Techs., LLC*, B-419919.2, Feb. 10, 2022, 2022 CPD ¶ 58 at 8; *Louisiana Clearwater, Inc.--Recon & Costs*, B-283081.4, B-283081.4, B-283081.5, Apr. 14, 2000, 2000 CPD ¶ 209 at 6. We have granted requests for costs in such rare cases; however, such cases represent the exception, not the rule. See e.g. *Bluehorse Corp.--Recon.*, B-414383.3, Aug. 28, 2017, 2017 CPD ¶ 267 at 3 (explaining that the principles set forth in *Louisiana Clearwater* address a narrow range of circumstances); see also *Xcellent Tech. Sols., LLC--Costs*, B-412591.3, Nov. 14, 2016, 2016 CPD ¶ 332 at 5 (same).

Further, we will recommend reimbursement only where the protest was *clearly* meritorious, i.e., not a close question. *Science Applications Int'l Corp.--Costs*, B-410760.5, Nov. 24, 2015, 2015 CPD ¶ 370 at 3. A protest is clearly meritorious where a reasonable agency inquiry into the protester's allegations would have revealed facts showing the absence of a defensible legal position. *Bowhead Mission Sols., LLC--Costs*, *supra* at 4, 7; *Apex Transit Sols., LLC--Costs*, B-418631.4, Feb. 8, 2021, 2021 CPD ¶ 102 at 5. As a general rule, we do not regard a protest as clearly meritorious where resolution of the protest would require further record development to complete and clarify the record. *Bluehorse Corp.*, *supra* at 4.

We have recognized that the promise of corrective action without reasonably prompt implementation has the effect of circumventing the goal of economic and expeditious resolution of protests. *Louisiana Clearwater, Inc.*, *supra*. We may recommend reimbursement of costs where an agency fails to implement the promised corrective

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where we might find such a challenge. See Comments at 4-5. Based on our review of the protests, such a challenge was not raised. Accordingly, our decision on Clean Team's request for a recommendation for reimbursement of costs does not discuss this as a possible basis for reimbursement.

action or implements corrective action that fails to address a clearly meritorious protest ground. *Id.*

Clean Team recognizes that in each of the underlying protests, the agency's corrective action was announced prior to the agency report due date. Req. for Costs at 3-4. Clean Team also recognizes our general rule that where the agency's corrective action was prompt, we will not recommend reimbursement of costs. *Id.* However, Clean Team notes that in some circumstances, our Office has issued a recommendation for reimbursement of costs where corrective action has preceded the filing of an agency report. *Id.* at 4. According to Clean Team, the facts here represent "unique" circumstances warranting a recommendation for reimbursement of costs. Req. for Costs at 3-5; Comments at 4-6. That is, Clean Team alleges that it raised clearly meritorious protest grounds in each of its three protests and that the agency frustrated the economic and efficient resolution of those grounds with corrective action that did not address them. Req. for Costs at 1; Comments at 1.

In support of this position, Clean Team asserts that the facts at hand are "strikingly similar" to the facts in *Louisiana Clearwater*, a decision in which we recommended reimbursement of costs where the agency took corrective action before the agency report due date. Req. for Costs at 3-5; *Louisiana Clearwater, Inc., supra*. Clean Team further supports its position with our decision in *Amaze Technologies* which recommended reimbursement of costs where the agency took corrective action prior to the submission of an agency report. Req. for Costs at 4-5; *Amaze Techs., LLC, supra*. According to Clean Team, based on the principles established in these cases, we should recommend reimbursement of costs here. *Id.* at 5.

The agency takes no position on whether its corrective action was prompt. See *generally* Resp. to Req. for Costs. Rather, the agency counters that Clean Team should not be reimbursed for the costs of filing and pursuing its protests because none of the underlying protests were clearly meritorious. *Id.* at 1-3. In this regard, the agency argues that in each underlying protest, the record was insufficiently developed to determine whether the grounds raised were clearly meritorious. *Id.* at 2. According to the agency, where further record development is required to complete and clarify the record, a protest cannot be considered clearly meritorious. *Id.* (citing *Bluehorse Corp.--Recon., supra*).

The agency also distinguishes the facts at hand from our decision in *Louisiana Clearwater*, arguing that here, Clean Team has not demonstrated that any of its challenges were clearly meritorious. *Id.* In contrast, the agency argues that the corrective action in *Louisiana Clearwater* failed to address a clearly meritorious issue raised in a previous protest. *Id.*

As discussed below, we find that in each of the underlying protests, the agency's corrective action was prompt, and that the protest grounds raised were not clearly meritorious. As a result, the record does not support a conclusion that the agency unduly delayed taking corrective action in the face of a clearly meritorious protest, or



that it failed to implement corrective action addressing a clearly meritorious protest ground. We explain our conclusion below.

First, in each underlying protest, the agency filed its notice of corrective action prior to the scheduled due date for the agency report. As discussed above, where an agency takes corrective action by the due date of the agency report, we generally regard the action as prompt and will not recommend reimbursement of protest costs. *Abhe & Svoboda, supra*. We see no reason to depart from this general rule under the facts here.

While Clean Team argues that our decision in *Amaze Technologies* supports a recommendation for reimbursement here, we disagree. In *Amaze Technologies* our Office recommended reimbursement of costs in a matter where the agency took corrective action prior to the filing of an agency report. *Amaze Techs., supra* at 4. However, an agency report was not filed by the scheduled due date because we had suspended the requirement to file the report. *Id.* In that matter, corrective action was taken 76 days after the protest was filed. *Id.* at 9. In our decision recommending reimbursement of costs, we explained that the agency's corrective action was not prompt because it was taken after the record was fully developed through the submission of comments from the Small Business Administration (SBA) and briefing from the parties on the SBA's comments. *Id.* at 9. The unique facts in *Amaze Technologies* are not present here; rather, the agency's corrective action was promptly filed prior to the scheduled due date for submission of the agency report in all three underlying matters.<sup>12</sup>

Second, none of Clean Team's underlying protest grounds were clearly meritorious. As discussed above, generally, we do not regard a protest as clearly meritorious where resolution of the protest would require further record development to complete and clarify the record. *Bluehorse Corp., supra* at 4. Here, further record development would be required to assess the merits of the underlying protest grounds.

For example, Clean Team's protests argued that the agency had improperly removed the janitorial services requirement from the 8(a) program, improperly awarded a sole-source contract to ICMC, and unreasonably valued ICMC's contracts below \$4.5 million. Protest (B-421157) at 7-16, 22; Protest (B-421157.2) at 21-29; Protest (B-421822) at 17-19. Based on the record available, those challenges were not clearly

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<sup>12</sup> To the extent Clean Team suggests that the agency's corrective action taken in response to the second protest was unduly delayed due to the agency's request for dismissal, we deny the request. We have previously explained that an agency's pursuit of a reasonable procedural litigation strategy does not constitute undue delay in taking corrective action. *Abhe & Svoboda, Inc., supra*. While Clean Team characterizes the agency's request for dismissal as "lengthy" and "procedurally improper," it does not advance an argument as to why or how the agency's request for dismissal filed in the second protest was other than a reasonable procedural litigation strategy or otherwise improper. See Req. for Costs at 2.

meritorious. Due to the agency's prompt corrective action in each underlying protest, adequate documentation and briefing on those issues was not submitted. In other words, we lacked a record sufficient to make a final decision regarding the merits of the challenges raised. See e.g., *Bluehorse Corp.*, *supra* at 4 (protest is not clearly meritorious where we lacked "a complete record sufficient to make a final decision regarding the merits of the protest").

As another example, Clean Team challenged the sufficiency of the agency's investigation into its allegation of a PIA violation. Protest (B-421157) at 16-24; Protest (B-421157.2) at 11-19; Protest (B-421822) at 8-17. Again, based on the record available, this challenge--standing alone--was not clearly meritorious, as we would need to review documentation and briefing about the investigation in order to determine the merits of the argument. See e.g., *Dell Servs. Fed. Gov., Inc.*, B-414461, B-414461.2, June 21, 2017, 2017 CPD 192 at 4-7 (analyzing allegation of PIA violation). Due to the agency's prompt corrective action in each matter, documentation and briefing on this issue was not submitted.

As a final example, in its second protest, Clean Team protested the implementation of the agency's corrective action. Protest (B-421157.2) at 8-11. Based on the record available, this challenge was not clearly meritorious. While Clean Team was correct that the implemented corrective action following the first protest was different than what was announced, the agency's request for dismissal filed in the second protest provided a plausible explanation for that result. That is, the agency explained that it did not follow its announced corrective action because it discovered the corrective action was based on a factual mistake. See Req. for Dismissal (B-421157.2) at 6-7. Absent an agency report and comments briefing this issue, we lacked a record sufficient to make a final decision on the merits of the protest.

Because the underlying protests were not clearly meritorious, we conclude that the implemented corrective action did not fail to address a clearly meritorious protest ground. Therefore, the principles set forth in *Louisiana Clearwater* do not apply here. That case addressed a narrow set of circumstances; namely, where an agency fails to implement corrective action in good faith in response to a clearly meritorious protest. *Bluehorse Corp.*, *supra*. The issue raised in *Louisiana Clearwater* was clearly meritorious because it was conceded by the agency. See *id.* Unlike in *Louisiana Clearwater*, here, the underlying protests were not clearly meritorious.

To the extent Clean Team argues that the agency failed to implement its corrective action as announced in response to the second protest, we disagree. In that protest, the agency stated that due to a lack of contemporaneous documentation, its corrective action would include terminating the award to ICMC and restarting the procurement process. Notice of Corrective Action (B-421157.2). The record reflects that the award to ICMC was terminated and that a new sole-source award was issued, *i.e.*, the agency implemented its proposed corrective action. See Protest (B-421157.2), exh. 4, ICMC Award; see also Protest (B-421822), exh. 4, ICMC Second Award. Clean Team asserts that the agency's stated reasoning for taking corrective action in the third protest (*i.e.*

failure to document the award decision) is the same as the corrective action in response to the second protest and therefore demonstrates that the agency failed to implement that corrective action. However, the agency's conceded failure to adequately document its new award decision does not establish that it failed to implement the announced corrective action, nor does it establish that the second protest was clearly meritorious.

In sum, the agency did not unduly delay taking corrective action in the face of a clearly meritorious protest. Therefore, the standard for recommending reimbursement of costs is not met. *See Bowhead Mission Sols., LLC.*

The request is denied.

Edda Emmanuelli Perez  
General Counsel