



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Front Desk Enterprises, Inc.

File: B-230732

Date: June 23, 1988

DIGEST

1. Where evaluator is alleged to have conflict of interest due to general business interests, but there is no showing that the evaluator had conflict involving the proposed awardee or that the alleged general conflict resulted in flawed evaluation, protest is without merit.
2. Where agency's report specifically addresses argument in the initial protest that proposal evaluation was flawed, and protester fails to rebut the agency's position in its comments on the agency's report, the issue is deemed abandoned.

DECISION

Front Desk Enterprises, Inc. (FDE), protests the award of a contract to any other offeror under a prospectus issued by the National Park Service, Department of the Interior, seeking offers for the operation of the Carter Barron Amphitheatre in Washington, D.C. We deny the protest.

Offers were received from two firms, Carter Barron Enterprises, Inc. (CBE), and the protester. After evaluating both proposals, the four-member technical evaluation committee recommended that discussions not be undertaken with the protester due to deficiencies primarily in two areas: (1) financial strength, which was considered critical because of the amount of funds needed to improve the facility and the risk involved in receiving unsteady cash inflows; and (2) operational projections, for which the protester failed to submit a required professionally prepared economic feasibility study, and produced only 3-year projections of revenue which the evaluation committee considered unrealistic. Hence, the protester was notified that its proposal was no longer under consideration for award.

In its protest, FDE argues that its proposal did not receive a fair evaluation due to the influence of one evaluator who, FDE alleges, had a conflict of interest arising from his

042547/136179

other activities and interests as a promoter in the local performing arts/recording industry. The protester asserts that this conflict is in violation of various Interior's regulations.

Our review of conflict of interest allegations focuses not on whether a violation of the applicable conflict of interest statutes or regulations occurred but, rather, on whether the individuals involved in the alleged conflict exerted improper influence in the procurement in question on behalf of the awardee. See Rossner, White, Hobbs, Davidson, McClellan, Kelley, Inc., B-224199, 66 Comp. Gen. 169, (1986), 86-2 CPD ¶ 714. Hence, even if a conflict is shown to exist, the protester must show that the evaluation was influenced by favoritism toward the awardee. Id.

Here, no conflict has been shown. While it does appear that the evaluator in question is involved in the local entertainment business, the agency states, and the record does not show otherwise, that the evaluator had no past or present relationship with the awardee or any of its corporate officials; hence, no conflict exists as to this procurement. We note that the protester alleges only a general conflict resulting from the evaluator's outside interests, and does not actually argue that the evaluator has some conflict involving CBE in particular.

In any case, FDE has not shown that the evaluation was improper. In its report, the agency described in some detail how the proposals were evaluated, and indicated, as stated above, that FDE's proposal was downgraded primarily based on financial considerations. Aside from unsupported statements in its comments on the report alleging prejudice in the evaluation, FDE has not disputed the substance of the technical evaluation of its proposal; FDE does not refute the agency's conclusions regarding the financial deficiencies found in the firm's proposal. Where an agency specifically addresses issues raised by the protester in the initial protest letter and the protester fails to rebut the agency's response in its comments, we consider the issues to have been abandoned by the protester. See PacOrd, Inc., B-224249, Jan. 5, 1987, 87-1 CPD ¶ 7.

FDE requests that our Office investigate the alleged conflict of interest. However, we do not conduct investigations under our bid protest function to provide support for a protester's allegations. Badger Electric Products, Inc., B-230087, Feb. 1, 1988, 88-1 CPD ¶ 97. FDE also requests recovery of its bid preparation and protest costs. These costs will not be allowed where we have found no improper agency action. Burnside-Ott Aviation Training Center, B-229793, Mar. 4, 1988, 88-1 CPD ¶ 236.

As we find nothing in the record indicating an improper conflict of interest or a faulty proposal evaluation, the protest is denied.

JF *James F. Hinchman*
James F. Hinchman
General Counsel