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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-216673.10; B-216673.11 **DATE:** April 8, 1985

MATTER OF: Travelogue, Inc.

DIGEST:

GAO dismisses protests alleging that certain line items of a solicitation were not properly evaluated where the same broad issues have been raised in a court action involving the same procurement, since the selection process was completely integrated and the actions or possible remedies of the court, which is not interested in GAO's opinion, could affect the protested line items. The fact that the protested items are not specifically before the court and protester is not a party to the litigation does not change this result.

Travelogue, Inc. protests the General Services Administration's award of line items B-12 and B-13 under solicitation No. WFCG-E3-N-1137-8-1-84 to Omega World Travel, Inc. This procurement is for the arrangement of passenger travel for various federal agencies in the National Capitol Region. Each line item represents a different travel agency site.

We dismiss the protests.

This procurement has been the subject of two earlier decisions of our Office: Adams Associates Travel, Inc., et al., B-216673.2, et al., Feb. 1, 1985, 85-1 CPD ¶ 124 and Omega World Travel, Inc., B-216672, B-216673, Nov. 6, 1984, 84-2 CPD ¶ 508. In these, we dismissed protests by a number of firms, including Omega and Travelogue, against the award of other line items under this procurement because Omega had filed an action in the United States District Court for the District of Columbia, Omega World Travel, Inc. v. Ray Kline et al., Civil Action No. 84-3190,

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requesting a temporary restraining order, preliminary injunction, and permanent relief. This action is still pending, and the court has expressed no interest in our opinion.

The dismissed protests concerned the evaluation procedures and criteria for this procurement, with allegations identical or similar to Omega's contentions in the court action. We held that the protest contentions and the requested possible remedies were effectively part of the Omega litigation, even for the protesters, who were not parties to it. Consequently, Omega's complaint in the court action put at issue the substance of those protests.

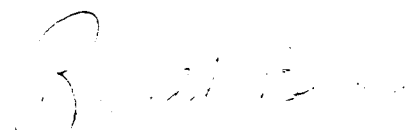
Travelogue's protests here concern line item awards to Omega that are not specifically before the court. Travelogue makes two basic contentions as to why these awards to Omega are improper. First, Travelogue contends that only one technical score was given to the entire proposal of each offeror, although the solicitation had indicated that line items would be individually scored. Second, Travelogue contends that an undisclosed evaluation factor was used, in that additional points were awarded if an offeror listed accounts of \$50,000 or more that it had serviced for longer than 3 years. Travelogue asserts that the solicitation did not indicate that the age of accounts would be considered in calculating offerors' capabilities, and in fact, offerors were limited by the solicitation to proposing only their eight largest accounts regardless of age. Travelogue contends that if it had been apprised that the age of the accounts was to be evaluated, it could have listed others valued at more than \$50,000 that would have earned additional points.

The record indicates that offerors indeed received single scores regardless of the number of line items, i.e., travel agency sites, that they proposed to serve. Under the solicitation they were asked to designate which line items they were interested in performing; many offerors only proposed some. GSA then reviewed the financial capabilities of the offerors receiving the highest scores to ascertain how many and which of the line items they should be awarded, and made multiple awards. Omega challenged most of these in the court action.

Travelogue's first contention regarding the single scoring of proposals for all line items has been specifically raised by Omega in the court action. Travelogue's second contention regarding the scoring of proposals based upon the period of time offerors have serviced accounts of \$50,000 or more apparently has not been specifically raised in the court action. However, Omega does generally assert the broader issues in the court action, i.e., that GSA did not adhere to the evaluation criteria specified in the solicitation and used unstated criteria in evaluating proposals.

In our opinion, the selection process that led to the award of line items B-12 and B-13 to Omega is completely integrated with the awards currently being challenged in the court action. Moreover, the protest contentions of Travelogue are, in one case, identical and, in the other, similar to the issues raised in the court action. Consequently, we believe that whatever action or possible remedy that could be ordered by the court could also affect the awards to Omega, even though the line items protested by Travelogue are not specifically before the court and Travelogue is not a party to the court action. Under the circumstances, we conclude that, as a practical matter, Omega's complaint in the court action puts at issue the substance of Travelogue's protests. See Stirling Converting Co., Inc., B-215202.2, July 3, 1984, 84-2 CPD ¶ 16.

Therefore, since the court neither requests, expects, or is interested in our decision, we dismiss the protests. Adams & Associates Travel, Inc., et al., supra.



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