



CITY OF ATLANTA

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TO: Clair Muller, Chair, City Council Transportation Committee

FROM: Leslie Ward *lw by ch*

DATE: April 2, 2008

SUBJECT: Review of the airport retail concessions procurement

You asked me to review the solicitation for the provision of retail concessions in the Hartsfield-Jackson Atlanta International Airport. The solicitation consisted of 11 packages, covering retail operations in Concourses T, A, B, C, and D, and the Atrium at the airport. The concession lease agreements are for an initial term of 7 years, with a 3-year renewal option. Four proponents were recommended for awards of the 11 packages.

The purpose of the review was to assess the solicitation for consistency with previous audit recommendations on procurement, specifically covering the evaluation process. We conducted this audit in accordance with generally accepted government auditing standards. Our review was limited to evaluating whether the Department of Procurement (DOP) implemented our previous recommendations, and did not include a review of compliance with applicable laws and regulations. We also did not assess the validity of allegations in the vendor protest.

Our audit methods included:

- reviewing applicable DOP files on the retail concession solicitation;
- reviewing DOP's standard operating procedures;
- interviewing DOP staff, including the chief procurement officer and contracting officer for the retail concession solicitation;
- interviewing three of the four evaluators for feedback on the evaluation process; and
- verifying that the solicitation files we received from DOP were complete.

We reviewed information that is confidential under the Georgia Open Records Act, but none of that confidential information is included in our report, nor is it necessary to support our findings and recommendations.

Based on our review, we found that in response to our previous recommendations, the DOP has made significant changes to the procurement process, which should increase transparency and accountability. We suggest two changes that could further improve the process.

We made recommendations to improve the evaluation process in our March 2006 performance audit, *Procurement Solicitation and Evaluation*, and our February 2007 performance audit, *Aviation Fixed Base Operator Solicitation*. Some of the previous audit recommendations are not directly applicable to this particular review; particularly ones which address specific aspects of the fixed based operator solicitation.

We list the applicable recommendations from our previous audit reports, with our analysis of DOPs efforts to address them below.

- 1. The chief procurement officer should develop controls to ensure that all necessary information is included in solicitation documents.** In our previous work, we found that although DOP used a computer template designed to prevent such errors, important information had occasionally been omitted from solicitation documents.

DOP now uses a Project File Checklist to ensure that the solicitation files are complete. The checklist contains a list of the documentation that is applicable to the procurement process; this checklist is placed in each file at the end of the process. We noted no relevant information missing from the files during this review.

- 2. The chief procurement officer should develop a review process for solicitations with numerous addenda.** Our previous audit recommended that DOP monitor the number and nature of changes to solicitation documents, and use the information gained to assist staff preparing the documents. The department recommends no more than three addenda per solicitation, and there were more than three for one-third of the procurements we reviewed during our previous audit work.

For the retail concession solicitation, there were a total of 3 addenda for all 11 packages, which meets DOP's performance standard. Addendum #1 changed the pre-proposal and site tour dates, and as a result, extended the due date to submit questions. Addendum #2 clarified the space configuration and store concept of one of the packages. Addendum #3 provided various revisions to the RFP and also included a list of 206 questions from proponents, with DOP responses.

Current Recommendation:

DOP policy states that RFP changes can only be made via an addendum. An RFP requirement was changed in the question and answer section of Addendum #3, without being highlighted in the revisions section to the addendum. In the question and answer portion - question #139 - a proponent suggested that the 1% marketing fee was too high and asked that DOP consider reducing it based on brand recognition of the stores. DOP responded to the question by reducing the marketing fee to 0.5%. However, this change to the RFP (applies to all packages, Scope of Services, Section 3.8) was not specifically included in the addendum under the revisions. As a result, proponents may not have learned of this change if they did not read all 206 questions and answers.

DOP should consider including all changes to the RFP requirements in the revisions portion of the addendum instead of covering them in the question and answer section. Although the entire addendum is provided to all planholders, putting RFP changes in the revisions section would make them apparent to the planholders and enhance the transparency of the procurement process.

- 3. The chief procurement officer should be more involved in determining the qualifications of evaluators.** We further recommended that aviation and procurement identify the qualifications that evaluators should possess for a solicitation, and instead of simply reviewing the names and job titles of potential evaluators, the chief procurement officer should review the additional information provided by aviation before granting approval.

In the retail concession procurement, DOP obtained the resumes of four evaluators and three alternates that were recommended by the Department of Aviation. The chief procurement officer reviewed the evaluators' resumes and verified their qualifications with Aviation staff before approving the evaluators.

- 4. The chief procurement officer should design a "conflict of interest" disclosure statement form for evaluators.** In response to the original audit recommendation, DOP staff said the evaluators are required to abide by the Principles and Standards of Conduct for Procurement for Evaluators and would incorporate a disclosure form for acknowledgement of those principles.

For the retail concession procurement, each evaluator, including alternates, signed this form, indicating that they:

- cannot accept gifts or anything of value from potential proponents,
- will not disclose the contents of the proposals, and
- do not have a financial interest in any entity submitting a proposal.

- 5. The chief procurement officer should ensure evaluators fully understand the evaluation criteria and evaluation procedures.** The audit recommended that the evaluation criteria be clearly defined and understood by the evaluators, the criteria be clearly linked to the solicitation response requirements, and that evaluators understand which criteria they will evaluate and are adequately instructed on evaluation protocol, procedures, and scoring systems.

DOP has developed a training program for evaluators, providing information to them that lays out the evaluation process, describes the new scoring method and explains the scoring guidelines. For the retail concession procurement, the evaluators helped to develop the evaluation criteria. DOP staff met with the evaluation team on multiple occasions throughout the process to provide training and facilitate the evaluation process. The solicitation requirements and evaluation criteria (including the weight of each criterion) are specifically listed in the RFP, and they are consistent.

The evaluator training materials includes a description of how the process will be conducted, and how the scores will be determined. Included with the evaluation criteria is a list of guidelines or "suggested list of factors" for evaluators to consider when evaluating each of the criteria, which should ensure consistency in the evaluations.

- 6. The chief procurement officer should restructure the evaluation scoring methodology.** The audit recommended that in order to reduce unnecessary subjectivity, DOP should use a limited and consistent number of possible scores for all of the criteria and create a rubric that defines what each possible score means. Scores could then be weighted during compilation by multiplying each criterion's score by its percent weight.

DOP developed a policy stating that various types of evaluation plans will be developed and discussed with the evaluation teams on a project-by-project basis. For the airport retail concessions, the scoring system that was used is based on a 1-10 scale per category. Each category was given a weight, and scores for each category were multiplied by the assigned weight to arrive at the final score. This revised scoring system is consistent with the intent of our recommendation.

The scoring scale was as follows:

- 1-2 - marginally effective
- 3-4 - effective
- 5-7 - highly effective
- 8-10 - outstanding

The weight given to each major evaluation criteria/category was:

- General Capacity – 20 points
- Overall Experience – 15 points
- Business Plan – 20 points
- Financial Offer – 20 points
- Financial Capability – 10 points
- Disadvantaged Business Enterprise – 15 points (either 15 or 0, meets or does not meet)

- 7. The chief procurement officer should allow evaluators to discuss criteria during evaluations.** The audit recommended that DOP revise its evaluation policies to allow evaluator discussion during evaluations to clarify criteria.

DOP revised its evaluation policies to allow for various methodologies and used a collaborative scoring methodology for the retail concessions, which was recommended by the Department of Aviation. Evaluators reviewed the proposals independently, then met to discuss the proposals and jointly developed scores for each category; no individual scoring was done. This methodology was developed by Aviation and approved by the chief procurement officer. According to Aviation, the Department of Law concluded that the new process did not appear to be in violation of the Procurement code. DOP staff were present during the collaborative scoring sessions.

- 8. The chief procurement officer should offer pre-protest meetings to vendors.** The previous audit indicated that these meetings could be used to answer vendors' questions and provide feedback on the evaluation, which may reduce the number of protests filed by vendors.

For the retail concession solicitation, to date, there has been one protest filed, which was denied by DOP and appealed by the proponent. A hearing has not yet been held. Prior to filing the protest, the proponent made an open records request, which the Department of Law responded to, indicating the documents that were available and not exempt by disclosure laws. According to DOP staff, the proponent has not responded to the offer to reproduce documents.

- 9. The chief procurement officer should clarify procedures for determining proponents' responsibility and responsiveness and ensure they are followed.** The audit recommended that the chief procurement officer follow its established procedures and

eliminate proposals that fail specific criteria from further consideration. It also recommended that DOP score these criteria prior to sending the proposals to the user department for technical evaluation, which would provide for more effective use of evaluators' time. DOP responded that it would revise and update its SOPs to improve and clarify responsibilities for determining the responsiveness of proposals.

DOP's contracting officer reviewed the retail concession proposals for responsiveness by reviewing whether the required elements listed in the RFP were included in the proposals. Other than the RFP, DOP does not have a specific "checklist" for deeming the proposals non-responsive. Four of the 81 proposals submitted were deemed non-responsive. The contracting officer determined that two of the proposals were non-responsive because the proponents failed to submit the financial offer, which is required by the RFP. These proposals were not reviewed by the evaluators. The evaluators deemed an additional two proposals non-responsive because they presented a minimum annual guarantee (MAG) in excess of the \$129,000 maximum established in the RFP.

The only documentation of the non-responsiveness reviews consisted of the letters that went out to the proponents stating that their proposals were non-responsive, and included the reason. It is not possible to determine who was responsible for the determination simply by reviewing the files.

Current Recommendation:

We commend DOP for screening the proposals prior to sending them to the evaluators; identifying non-responsive proposals allows for better use of the evaluators' time. However, to increase transparency and accountability, when a proposal is deemed non-responsive, the DOP should document the non-responsiveness review, including the person conducting the review and the reason why the proposal was deemed non-responsive.

10. The chief procurement officer should implement appropriate controls over solicitation files. We recommended that the chief procurement officer document and immediately implement its new procedures in order to prevent files from being lost in the future.

For the current solicitation, in addition to using the Project File Checklist to ensure that the files are complete, DOP has instituted security controls within the department to ensure that files are not lost or misplaced. Employees are not allowed to take files home, and the files are kept in locked file cabinets in the office. DOP also placed keypads in the office so that other city staff (and members of the public) cannot access all areas of the department.

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City Council Transportation Committee

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