

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

In the Matter of
the Bid Protests filed with respect to the
acquisition of bookstore operation and construction
by the State University of New York, College at Buffalo
RFP97206

Determination
of Bid Protests
SF-0898/058

This Office has completed its review of the above-referenced Request For Proposals ("RFP"), the contract awarded by the State University of New York, College at Buffalo ("the College"), and the bid protests filed by the Faculty Student Association of Buffalo State College, Inc. ("FSA") and by Follett College Stores ("Follett"). As outlined in further detail below, we have determined that the procurement was conducted in accordance with law and was otherwise reasonable and appropriate and therefore have approved the resulting contract to Barnes and Noble College Bookstores, Inc. ("Barnes & Noble").

BACKGROUND

Facts

FSA currently operates the existing on-campus bookstore at the College pursuant to a contract which expires on June 30, 1999.¹ The College issued an RFP to solicit offers for a new 10-year contract to not only operate a bookstore but also to assist in the construction of a new bookstore facility, effective July 1, 1998 or upon Comptroller's approval. Pursuant to the RFP, three offers were received -- one from each protester, and one from Barnes & Noble. A seven member evaluation committee considered eleven factors outlined in the RFP. Ten of the factors resulted in the assignment of points to each proposal. One factor, "Variances from RFP," resulted in the deduction of points from each proposal. When the points were added/subtracted, the offerer with the most points was Barnes & Noble, to whom the award was made on May 20, 1998.

Following the award but prior to the signing of the contract, FSA protested to the College. The State University, Central Administration ("SUNY") made a determination of

¹The contract contains a termination clause which will be exercised when the contract at issue in this protest is finally approved.

the protest on June 26, 1998², denying the protest, and upholding the award. The College signed the contract and forwarded it to this Office for approval. Follett then filed an initial protest and FSA timely appealed, both to this Office. As the issues are identical and the parties equally affected by our decision, we combine both protest proceedings into one.

Procedures and Comptroller's Authority

The Comptroller is required by section 112 of the State Finance Law ("SFL") to approve all State agency contracts which exceed \$10,000 in amount before such contracts become effective. However, an agreement between SUNY and the Comptroller, as provided for in Education Law, §355(5), requires only contracts over \$50,000 entered into by the State University to be approved by the Comptroller. As this contract is for well over \$50,000, the Comptroller must approve it before it becomes effective. As a contract has already been signed by the College, the Comptroller has reviewed these bid protests as part of his review of the contract award under the aforementioned law and agreements.

As part of the review by this Office, we considered the following submissions: correspondence from Richard H. Wyssling, Esq. on behalf of FSA dated May 27, 1998, June 4, 1998, July 2, 1998, July 7, 1998, and July 31, 1998; correspondence from Scott Deaton on behalf of Follett dated June 29, 1998; the determination of George H. Buchanan, Esq. on behalf of SUNY dated June 26, 1998 (inadvertently dated June 15, 1998); and correspondence from George H. Buchanan, Esq. on behalf of SUNY dated July 24, 1998.

Protesting Parties

FSA is a New York not-for-profit corporation and one of the three vendors which submitted a proposal in response to the RFP issued by the College. Follett is a subsidiary of privately held Follett Corporation of Illinois, and is one of the three vendors which submitted a proposal in response to the RFP issued by the College.

ANALYSIS OF BID PROTESTS

Protestor's positions

Follett's protest is on the following grounds:

- It was not afforded an opportunity to make a formal presentation or to discuss key points of its proposal with evaluation committee members.
- At the bid opening, information about the successful bid was deemed still

²Inadvertently dated June 15, 1998.

- proprietary and thus unavailable until final negotiations were in place.
- Its overall financial offer to the College surpassed that of the other bidders.
- The successful bidder was granted an exclusive extension after the original due date to submit store designs.

FSA's protest to SUNY, its appeal to the Comptroller, and its reply to the response of SUNY, are as follows:

- Its financial offer to the College, considering commissions, rent and utility projections, investment in the new facility, and other costs and payments, is superior to that of Barnes & Noble.
- Its proposal to fund the construction of a new facility is superior to that of Barnes & Noble.
- Barnes & Noble's proposal to fund the construction of a new facility is so insufficient as to render it non-responsive to the RFP.
- The RFP's language inappropriately penalizes small businesses in favor of large businesses.
- The fact that Barnes & Noble received the most negative points from the evaluation committee showed that they should have been held non-responsive to the RFP.
- The evaluation committee member appointed by the College administration inappropriately adjusted her evaluations to achieve the award to Barnes & Noble and was prejudiced against FSA.
- The evaluation committee was not representative of the College community.
- Barnes & Noble submitted two proposals and the evaluation committee may have responded to the best of each proposal and not to the proposals individually.
- The requirement in the RFP that the contractor retain the College's share of excess earnings in a reserve account to be drawn on solely by the College was illegal.
- FSA, as a student and faculty not-for-profit service organization, offers benefits to the college community that Barnes & Noble cannot.
- The College refused to release information about the successful bidder, claiming that it was proprietary.
- The Evaluation Committee, in assigning points for vendor qualification issues, violated the competitive bidding laws.
- If the College is considering a new location for the bookstore, it must start the RFP process over.

Agency's response to protest

In response to the original FSA protest, SUNY issued a determination on July 24, 1998 denying the protest and upholding the award. SUNY's grounds for that

determination, coupled with their assertions on appeal, are as follows:

- The Evaluation Committee was able to separate out the elements of commissions and other payments and arrive at the proper conclusion that the Barnes & Noble offer was superior.
- The Barnes & Noble proposal, contrary to FSA's assertions, did enable the committee to properly evaluate the proposal with respect to the construction of a new facility.
- The RFP category evaluating the number and size of offerers' current similar facilities was an appropriate measure of the contractor's ability to fulfill its contractual obligations and did not unduly harm a small business like FSA.
- The Barnes & Noble construction proposal was not variant from the RFP.
- The College did not overlook Barnes & Noble's variations from the RFP. Any variations were immaterial.
- The composition of the Evaluation Committee was appropriate and the Committee was fair in its determinations.
- The process followed by the Evaluation Committee was not flawed. Its scoring was in accord with all statutory requirements.
- Neither SUNY guidelines nor state law were violated by considering the multitude of factors enumerated in the RFP.
- The RFP requirement that the contractor retain the College's share of excess earnings in a reserve account to be drawn on solely by the college was eventually discarded.
- Even in light of the services offered by FSA to the College community, the Barnes & Noble proposal is of greater value.
- The College's handling of requests for information by the unsuccessful offerers was in accord with the Freedom of Information Law.
- While Barnes & Noble's capital investment amount was valued lower than either FSA or Follett, it could not be deemed inadequate.
- Any potential change in location of the bookstore had no impact on the award and is not being actively pursued by the College.

Applicable Statutes

The requirements of competitive procurements are set forth in SFL, §163, which provides that contracts for services shall be awarded on the basis of "best value" from a responsive and responsible offerer (SFL, §163[10]). "Best value" is defined as the basis for awarding service contracts to the offerer which optimizes quality, cost and efficiency among responsive and responsible offerers (SFL, §163[1][j]). A "responsive" offerer is an offerer meeting the minimum specifications or requirements as prescribed in the solicitation issued by the State agency (SFL, §163[1][d]).

DISCUSSION

In order to resolve the issues presented by these protests, we must consider the following:

- (1) Did the RFP evaluation categories comply with the law?
- (2) Did the Evaluation Committee err in the evaluation of the RFP? Was the Evaluation Committee fair, in terms of composition, scoring, and procedure?
- (3) Were there material variations from the RFP in the Barnes & Noble proposal which rendered it unresponsive?
- (4) Was the procurement flawed by reason of the post-bid opening procedures?
- (5) Must a new RFP be issued if a new bookstore location is being considered?

RFP Evaluation Categories

The offerers' responses to the RFP were evaluated on a weighted basis, based upon the following: Current Locations, Length of Time in Bookstore Business, Financial and Operational Stability, Pricing Policies and Textbook Availability, Quality of Services Offered, Staff and Employment Practices, Financial Arrangements, Capital Investment Plan, Contractor Utilization Plan, Comments from Current Account, and Variances from RFP. Each category, except the last, was described in more detail in the RFP. Except for the last category, which we will discuss in more detail below, the RFP categories evaluated were rational, logical and appropriate since they were reasonably related to a comparison of the quality, cost or efficiency of the proposals. Each was reasonably related to the likelihood of successful operation of a bookstore facility and participation in the construction of a new facility. Therefore, they were appropriate factors to be considered in determining best value (see SFL, §163[1][d]).

FSA's assertion that the RFP language may penalize small businesses, even if accurate, does not, in our opinion, render such language improper or illegal, as long as the use of such factor was reasonably related to the calculation of best value. It can reasonably be asserted that a larger business with substantial, documented activity in the same endeavor being procured herein, with more access to financial and other resources, would be in a better position to provide a high quality of services and/or provide these services more efficiently (see SFL, §163[1][j], stated above). Therefore, this is an element which may be considered in determining best value provided its weight is appropriate. In this regard, we note that the points allotted on the basis of size are far outweighed by other

evaluation criteria, thus negating potential steerage to or from a particular offerer.³ Accordingly, we believe the use of this factor was reasonable and appropriate.

FSA is incorrect in asserting that "[o]nce a bidder has been determined to be qualified, the law does not require an agency to determine which bidder is more qualified than another." To the contrary, that is one of the purposes of an RFP for a service contract. Again, SFL, §163(10) provides that contracts for services shall be awarded on the basis of "best value." SFL, §163(1)(j) defines a "best value" determination as one which the rates optimal quality, cost and efficiency among offerers. It is true that if a vendor is wholly unqualified, i.e., fails to meet the minimum requirements of the RFP, it should be deemed unresponsive or irresponsible, and thus its offer will be disqualified. However, assuming a responsive and responsible offerer⁴, there must, in a services contract, be a determination of which vendor is most qualified. Indeed, relevant to the preceding issue, the amount of revenue available to a vendor to accomplish the purposes of the contract is very much appropriate as an RFP evaluation category.

FSA is correct, however, that the requirement that the contractor retain the College's share of excess earnings in a reserve account to be drawn on solely by the college was illegal. This requirement, while it was stated in the RFP, was informational and was not a category used for evaluation purposes. No offerer agreed to abide by it.⁵ Therefore, it cannot reasonably be inferred that it resulted in the deduction of points from FSA or the deduction/addition of points to any other offerer. In the absence of prejudice to some bidder, we do not believe the procurement should be set aside on this basis.

FSA's final objection to the RFP -- that it did not give weight to the benefits of a student and faculty not-for-profit service organization -- even if true, does not render the RFP less than adequate, in light of the rather substantial list of relevant factors which were evaluated.

The Evaluation Committee/ The Evaluation Process

Both FSA and Follett assert that the committee erred in not finding their proposals

³On the other hand, if, for example, such points constituted 90% of the criteria, we would object to its inclusion in the RFP, since such a methodology would give undue weight to this factor in determining best value -- and would in all likelihood have been designed to steer the award to or away from an offerer.

⁴We discuss the responsiveness of the Barnes & Noble proposal infra, at pp. 7-10.

⁵The College recognized the problem and has dropped the requirement from their proposed contract with Barnes & Noble.

to be superior to that of Barnes & Noble. Both assert superior overall financial offers. FSA asserts a superior construction offer.

There was clearly a major difference of opinion on the Evaluation Committee. Evaluator #1 rated FSA substantially lower than other evaluators. Evaluator #4 rated FSA substantially higher than other raters. Three evaluators gave Follett the highest score, two gave Barnes & Noble the highest score, one gave FSA the highest score, and one gave FSA and Follett equally highest scores. When the scores were all tabulated, as the RFP intended, Barnes & Noble scored the highest.

This record does not demonstrate that any one evaluator's alleged bias tainted the evaluation process. Indeed, the existence of seven evaluators who had substantial disagreements is indicative of a healthy, unbiased process. Merely looking at the results after the fact and accusing any one evaluator of bias, with no more evidence than low scoring, is an inadequate attack on what appears to be a reasonable and rational process. No evidence has been submitted to support assertions that the one evaluator in question adjusted her scores after the fact.

We will not generally disturb a rationally reached determination of a duly constituted evaluation committee. This Office is extremely reluctant to second-guess scoring by evaluators. We recognize that each evaluator brings his or her own subjective views to the evaluation. Only when scoring is clearly and demonstratively unreasonable will we overturn the actions of an evaluator or an evaluation committee.⁶ SUNY has submitted enough evidence of reasonable and rational decision making by the committee to satisfy us that their efforts were made in good faith, that they applied the evaluation criteria in a fair and objective manner, and that their ultimate decision was arrived at in a proper manner.

The assertion that the committee did not appropriately represent the college community is impossible to determine. Clearly, students, faculty and staff were present. The wide divergence of opinions of committee members demonstrate an independence of action, not dominated by any one faction or appointive body. In any event, since neither the law nor SUNY regulations require specific composition of an evaluation committee, we need not pursue this issue any further.

Follett asserts the committee erred in not allowing it to make a formal presentation. No such opportunity for a presentation was stated in the RFP, however, nor was one

⁶The Comptroller has rejected awards based on unreasonable evaluation. For example, in June, 1996 we upheld a protest where one of the five members of an evaluation committee assigned the best score to almost every category for each proposal. Removing his scores changed the outcome. Such is not the case here.

suggested at the pre-bid conference. While such presentation may or may not have been desirable, it was neither illegal nor unreasonable to forego it.

Follett asserts that the committee erred in allowing Barnes & Noble to submit store designs after the April 28, 1998 bid opening. However, a transcript of questions and answers at the pre-bid conference, submitted by SUNY, indicates that all vendors were told that "[t]he college will accept architectural renderings or drawings in support of a timely responsive bid until close of business (5pm) on May 5, 1997 (sic)⁷." Therefore, we cannot say that any one offerer received an advantage so as to interfere with the concept of an equal playing field.

Responsiveness of the Barnes & Noble Bid

As a general proposition, there are two grounds for not awarding a contract to an apparent low bidder or the apparent bidder providing best value: (1) non-compliance with the bid specifications or (2) a finding that the bidder is not responsible. In either of these situations the lowest bid may be rejected and the second lowest bid may be accepted (Patrick R. Brereton & Associates v Regan, 94 AD2d 886, 463 NYS2d 319 [3rd Dept, 1983], *affd* 60 NY2d 807, 469 NYS2d 699; Bortle v Tofany, 42 AD2d 1007, 348 NYS2d 215 [3rd Dept, 1973]).

A governmental agency may decline bids which fail to comply with the literal requirements of the specifications or may waive a technical non-compliance with the bid specifications if the deviation is minor or not substantial, but a bid must be rejected if the non-compliance is material or substantial (Le Cesse Bros. Contracting, Inc. v Town Board of the Town of Williamson, 62 AD2d 28, 403 NYS2d 950 [4th Dept, 1978], *affd* 46 NYS2d 960, 415 NYS2d 413 [1979]). Non-material variances may be disregarded in awarding bids; material variances may not. Entering into a contract which materially varies from the bid specifications would have the effect of altering the specifications after the bidding process and would give the successful bidder an unfair advantage (see, e.g. Progressive Dietary Consultants v Wyoming County, 90 AD2d 214, 457 NYS2d 159 [4th Dept, 1982]).

A variance is material or substantial when it would impair the interests of the agency, place the successful bidder in a position of unfair economic advantage, or place other bidders at a competitive disadvantage (Cataract Disposal, Inc. v Town of Newfane, 53 NY2d 266, 440 NYS2d 913 [1981]; Application of Glen Truck Sales & Service, Inc. v Sirigano, 31 Misc 2d 1027, 220 NYS2d 939 [1961]).

⁷It would be unreasonable to read this transcript of the pre-bid conference of April 7, 1998 to mean anything but May 5, 1998.

Included among those variances which, in proper circumstances, have been held to be not material are: late filing of non-collusion statement (A.J. Beaudette Construction Co. v City of Syracuse, 62 Misc2d 564, 309 NYS2d 517, *affd* 34 AD2d 734, 313 NYS2d 356 [1970]; Consolidated Sheet Metal Works, Inc. v Board of Education, 62 Misc2d 445, 308 NYS2d 773 [1970]; Bailey v Colonna, 73 Misc2d 299, 341 NYS2d 359 [1972]; 1986 Opns St Comp No. 86-62, p 97); substitution of cash and an indemnity agreement as performance security in lieu of a surety bond (Cataract Disposal, Inc. v Town of Newfane, *supra*); failure to timely file and provide the proper amount of bid security (Frank Nowak Construction Co. v County of Suffolk, 233 NYS2d 627 [1962]; Rockland Bus Lines, Inc. v Board of Education, 43 Misc2d 1060, 252 NYS2d 712 [1964]; Superior Hydraulics v Town Board of Islip, 88 AD2d 404, 453 NYS2d 711 [2nd Dept, 1982], *appeal dismissed* 58 NY2d 824; L.J. Coppola v Park Mechanical Corp., 131 AD2d 641, 516 NYS2d 722 [2nd Dept, 1987]; see also McCord v Lauterbach, 91 AD 315, 86 NYS 503 [1st Dept, 1904]); submission of multiple rather than single performance and payment bonds (De-Con Mechanical Contractors, Inc. v Koch, 156 AD2d 263, 548 NYS2d 652 [1st Dept, 1989], *appeal denied* 76 NY2d 702, 559 NYS2d 239 [1990]); failure to list the total bid where unit prices were listed and the total amount was readily ascertainable (D.F. Allen & Co., Inc. v E. Williston UFSD, 143 AD2d 662, 533 NYS2d 19 [2nd Dept, 1988]); slight deviation in performance or structural requirements (see, e.g. Hopkins v Hanna, 135 Misc 750, 239 NYS 489 [1930]); and late filing of financial statements (Harran Transportation Company v Board of Education, 71 Misc2d 143, 335 NYS2d 971 [1972], *on reargument reversing* 71 Misc2d 139, 335 NYS2d 465).

Among the variances which have been held to be material are: failure to include required detailed declarations of a bidder's qualifications (A.I. Smith v City of Long Beach, 158 AD2d 454, 551 NYS2d 48 [2nd Dept, 1990]; see also Cave-of-the-Winds v Niagara Frontier St. Park, 64 AD2d 818, 407 NYS2d 301 [4th Dept, 1978]; Ajay Glass & Mirror Co., Inc. v County of Erie, 155 AD2d 988, 547 NYS2d 790 [1989]); a 5,000 pound differential in gross weight of a truck (Application of Glen Truck Sales & Service, Inc., *supra*); failure to include information required by the specifications concerning manufacturers whose equipment would be installed in connection with a construction project (Le Cesse Bros. Contracting, Inc., *supra*); submission of a bid price conditioned on a progress payment schedule not called for in the specifications (Sanford Fire Apparatus Corp. v Board of Fire Commissioners, 81 Misc2d 922, 367 NYS2d 891 [1975]); and stating bids as a flat dollar amount when a percentage bid was required (Amana Credit Services, Inc. v Erie County Medical Center, 148 AD2d 1006, 539 NYS2d 237 [4th Dept, 1989]).

Finally, in the case of AT&T Communications v County of Nassau, 214 AD2d 666, 625 NYS2d 592 [2nd Dept, 1995], AT&T's bid was rejected in part based upon a clause inserted into the bid which provided for the payment of a termination charge in the event that the contract was terminated on grounds other than AT&T's own material default. The county found this to be a material deviation from the bid proposal. The court held that this termination clause provided AT&T with protection not afforded to other bidders and had the

county accepted a bid with this clause, the other bidders would have been disadvantaged since they did not know at the time that they submitted their bids that they, too, could have included such a clause in their bids. The court concluded that the determination by the county that this additional clause was a material variation was rational and also that AT&T could not withdraw the termination clause in post-bid negotiations so that it might become the lowest responsive and responsible bidder, since this would have been unfair to the other bidders.

Probably the most troubling aspect of the process followed by the College was the inclusion in the RFP of the category, "Variances From the RFP," to which negative points were assigned. We believe no such category should exist. If a proposal is materially at odds with an RFP, it should be deemed unresponsive. If a proposal is not materially at odds, it should be evaluated pursuant to its strengths and weaknesses, with more points assigned for strength and less for weakness.⁸ If the use of this category changed the outcome of the procurement, we would be seriously concerned, and would, in all likelihood uphold the protest and refuse to approve the contract. Here, however, this is not the case. Barnes & Noble received the most negative points. If these negative points are eliminated, Barnes & Noble would still receive the highest rating in the best value evaluation and would still have been awarded the contract. Therefore, the use of this category will not impact our determination to approve the contract. We must, however, still determine whether Barnes & Noble should be considered non-responsive.

It is telling that no evaluator gave Barnes & Noble zero points in any category. Even Evaluator #4, who gave Barnes & Noble its lowest scores and gave FSA its highest scores, rated Barnes & Noble within 50% of FSA in all but one category, "Staff and Employment Practices."⁹ Two of the seven evaluators gave Barnes & Noble no negative points for variances, and a total of six of the seven gave them no more than five negative points, although each was empowered by the terms of the RFP to assign up to 20 negative points for variances. While Barnes & Noble clearly received the most negative points, each vendor received some negative points for variance.

SUNY has submitted an adequate response to the assertion of unresponsiveness, demonstrating why the College did not reject the Barnes & Noble proposal, and deeming

⁸The use of such category could also give rise to the perception that nothing in an RFP is mandatory, i.e., that any proposal could be considered regardless of what the RFP stated, with the sole penalty being the deduction of points. Here, however, we are satisfied that such perception would not have arisen, as the mandatory language elsewhere in the RFP outweighs any other inference.

⁹A majority of evaluators rated Barnes & Noble equal to or better than FSA in this category.

variances unsubstantial, i.e., non-material. The college considered the most serious variance to be the inclusion of utility and rental charges in the guaranteed commission structure. However, as a system was devised to separate out these charges and compare each bid on an equal footing, the College deemed the variance insubstantial and waived it, as it had the right to do (see D.F. Allen & Co., Inc. v E. Williston UFSD, *supra*).

SUNY totally disagrees with FSA's assertion that the "inadequacy" of Barnes & Noble's construction proposal should have rendered its offer unresponsive, stating that, although the FSA construction proposal was more detailed, the Barnes & Noble proposal was as detailed as the RFP required and enabled the evaluation committee to gauge the most important element, i.e., the level of financial contribution to the new facility. We agree with SUNY that the requirements of the RFP were met and that the evaluation committee had sufficient information to weigh the merits of the Barnes & Noble proposal against the other two proposals. According to SUNY's response to the FSA appeal, on capital investment alone, Barnes & Noble did receive the lowest rating, but not a rating anyone could consider inadequate. Interestingly, the scores assigned by the committee in the category which included the construction proposal, "Capital Investment Plan,"¹⁰ were as follows: Barnes & Noble - 572; FSA - 570; Follett - 560. Thus, the evaluation committee found enough merit to rate the Barnes & Noble total construction proposal number one.

It is clear that substantial information exists to uphold the determination of SUNY that the Barnes & Noble proposal was not materially variant from the RFP and that therefore Barnes & Noble was not unresponsive. Nothing leads us to disturb this determination.

Post Bid Opening

Follett and FSA both assert that the College has failed, in contravention of the law, to share information about the successful offer after the opening. It is our opinion that pursuant to the Freedom of Information Law, non-proprietary information must be available following the award and following all negotiations with the successful offerer.¹¹ If all negotiations have been concluded, the College must release all appropriate information to the unsuccessful bidders, after making a bona fide determination of what is not proprietary. Whether the College has erroneously withheld information is beyond the

¹⁰Capital Investment Plan included: Plan for new bookstore, Amount of investment, and Amortization plan.

¹¹This conclusion is not inconsistent with the prohibition contained in SFL, §163(9)(c) against the disclosure of the contents of a proposal prior to an award -- since clearly an award has occurred once the agency signs a contract (see SFL, §163[10][a]).

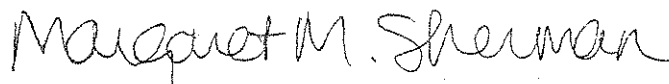
scope of our review and will not impact on the correctness of the award.¹²

New Bookstore Location

SUNY asserts that the idea for a new, off-campus location for the bookstore is not the College's idea and that the College is not actively pursuing it. If, notwithstanding SUNY's representation, a change in location is made, such a change would require an amendment to the contract which would need approval by the Comptroller. We would not approve a contract amendment if its terms had a material change from the RFP. Such material change could include: the need for a much larger staff, the need for a much larger capital contribution, or any other factor which substantially changes the responsibilities of the contractor or suggests new qualifications to accomplish the services under the contract.

CONCLUSION

SUNY has demonstrated that this contract for services was awarded on the basis of "best value" from a responsive and responsible offerer, as the Evaluation Committee appropriately weighed valid factors to determine which offer optimized quality, cost and efficiency among responsive and responsible offerers. All offerers were responsive to the RFP. Each offerer was inappropriately assessed negative points for variances, but as this did not change the outcome, the award stands.



Margaret M. Sherman
Assistant Deputy Comptroller

¹²Follett and/or FSA may wish to apply for an advisory opinion from the New York Committee on Open Government, or may enforce their rights under the Freedom of Information Law.