

THOMAS P. DiNAPOLI
STATE COMPTROLLER



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ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

November 17, 2015

Edward Cloke
Treasurer
Common Ground Dispute Resolution, Inc.
11 William Street
Catskill, NY 12414

Dear Mr. Cloke:

Re: SF20150292 – Surrogate Decision-Making
Committee (SDMC) Program

This office has reviewed your letter dated October 1, 2015, protesting the decision of the New York State Justice Center for the Protection of People with Special Needs (JCPPSN) to not make an award to Common Ground Dispute Resolution, Inc. (CG) to provide services for Region 2 in the Surrogate Decision-Making Committee (SDMC) Program. In your protest, you assert that JCPPSN improperly evaluated and scored your proposal. More specifically, you argue that one of the evaluators misconstrued information in your proposal, resulting in a lower score. In addition, you point to variances in scoring among the evaluators that you deem suspect.

Notwithstanding the Comptroller's broad contract review authority under State Finance Law § 112, this office generally gives significant deference to agency determinations regarding factual issues which are within the agency's technical expertise. Thus, where the technical conclusions of the evaluators are supported by the procurement record, and are consistent with the pre-established evaluation criteria, this office will not disturb them. Here, JCPPSN issued a Request for Proposals (RFP) that required detailed technical responses. JCPPSN employs professionals who have extensive experience and expertise in this program area that is intended to serve the needs of people with mental disabilities.

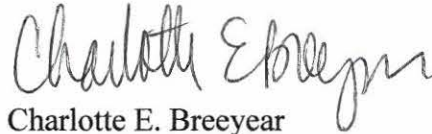
The RFP provided for seven different technical evaluation categories; each category containing detailed specifications upon which the proposals would be scored. You point out instances where evaluators scored certain criteria differently. Since each evaluator reviews the proposals with a unique perspective, it is not unusual for evaluators' scores to vary. Furthermore, if the scoring is supported by the procurement record, and is consistent with the instructions, we will generally not disturb the evaluators' judgment. Our review of the procurement record did not reveal any contradictions between an evaluator's written comments and the score assigned to CG's

proposal, nor any evidence that evaluators did not work independently. Although scores varied, all of the evaluators consistently scored CG's proposal lower than the proposal of the winning bidder for Region 2. Moreover, we determined that even if Evaluator 1 had assigned full points for the two categories you assert were unfairly scored (Project Accessibility and Other Support Factors) and Evaluator 3, who scored CG's proposal the lowest for Organizational Structure, had assigned full points for that category, CG's average total score would still have been lower than that of the awardee for Region 2.

Based on the foregoing, we are satisfied JCPPSN properly instructed evaluators how to score the proposals, and the evaluators followed such instructions while scoring the proposals submitted. Thus, this office does not find sufficient merit to uphold your protest.

While CG did not receive a funding award from JCPPSN under this RFP, we hope that you will continue to pursue other funding opportunities that New York State makes available.

Sincerely,

A handwritten signature in black ink, appearing to read "Charlotte E. Breear", written in a cursive style.

Charlotte E. Breear
Director of Contracts

vmk

cc: Robert Miller, JCPPSN