

FLORIDA AGRICULTURAL AND MECHANICAL UNIVERSITY
BOARD OF TRUSTEES,
TALLAHASSEE, FLORIDA

SODEXO OPERATIONS, LLC,

Petitioner,

v.

DOAH Case No. 13-001236BID
FAMU Case No. 13-00521

FLORIDA A&M UNIVERSITY BOARD
OF TRUSTEES,

Respondent.

_____ /

FINAL ORDER

This matter is before Florida Agricultural and Mechanical University Board of Trustees (FAMU) for final agency action. On or about March 18, 2013, FAMU posted a Notice of Intent to Award (Notice of Intent) a contract for dining services to Aramark Higher Education (Aramark), resulting from FAMU's Invitation to Negotiate #005-2013 for Dining Services Operations (ITN). Petitioner filed an amended formal written protest petition (Petition) related to the Notice of Intent on April 8, 2013. Amidst other reasons, Petitioner contested the award based upon alleged flaws in the evaluations process. Pursuant to Section 120.57(3)(d)3. and (e), Florida Statutes, on April 10, 2013, this matter was referred to the Division of Administrative Hearings ("DOAH") for a disputed fact hearing.


On April 15, 2013, FAMU withdrew the Notice of Intent to Award, the ITN, rejected all responses and advised that the solicitation for dining services will be reissued as a Request for Proposals. See FAMU's Exhibit A, which is attached hereto and incorporated herein by reference. Accordingly, no contract will be awarded pursuant to the ITN because both the Notice of Intent to Award and the ITN were withdrawn and all responses rejected.

Further, on April 15, Petitioner filed a Notice of Suggested Settlement with DOAH, stating in part that Sodexo anticipates filing a notice of dismissal should FAMU withdraw the underlying solicitation, as the withdrawal of the solicitation after Sodexo's protest partially moots Sodexo's claims. Moreover, in Petitioner's letter to FAMU dated April 16, 2013, Petitioner states "[o]n April 15, 2013, FAMU mooted Sodexo's protest by withdrawing the solicitation." See FAMU's Exhibit B, which is attached hereto and incorporated herein by reference. (See also 120.57(3)(f), Fla. Stat. and *Visionquest National, Ltd. v. Department of Juv. Justice*, Case No. 02-2825 BID (Fla. DOAH Dec. 17, 2002; Fla. DJJ Jan. 8, 2003) (where there were flaws in the evaluation process, ALJ recommended that all bids be rejected although the Department desired to reevaluate the proposals).


Consequently, there were no disputed issues of material fact to be resolved by DOAH or FAMU, as the matter providing the basis for the protest (the award of the contract to Aramark) no longer exists. Therefore, on April 16, 2013, FAMU filed a Motion to Relinquish Jurisdiction with DOAH. The Petitioner did not object to the motion. By Order entered April 17, 2013, DOAH closed its file and relinquished jurisdiction to FAMU.

Accordingly, it is hereby Ordered and Adjudged that the protest is dismissed in its entirety as moot, since there are no disputed issues of fact remaining and further that the instant matter is closed.

ORDERED and ADJUDGED this 22nd day of April, 2013.


Larry Robinson
Interim President

Filed with the Agency this
22nd day of April, 2013.


Abigail V. Raddar
Agency Clerk

NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely by this Final Order is entitled to judicial review in the District Court of Appeal, pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a notice of appeal with the Clerk of Florida Agricultural and Mechanical University Board of Trustees, Office of the General Counsel, Lee Hall, Suite 300, Tallahassee, Florida 32307, and a second copy, accompanied by filing fees prescribed by law, with the First District Court of Appeal. The notice of appeal must be filed within thirty (30) days after the date this Final Order is filed with the Office of the Agency Clerk.

Copy: Joseph Bakker, Interim Vice President, Administrative and Financial Services
Jacqueline Maxey, Assistant Vice President, Administrative and Financial Services
Stephany Fall, Director, Procurement Services
Claudia Llado, DOAH Clerk
Avery D. McKnight, Esq.
Shira R. Thomas, Esq.
David C. Self, II, Esq.
Albert E. Dotson, Esq.
Eileen Ball Mehta, Esq.
Eric Singer, Esq.

NOTICE OF NO AWARD

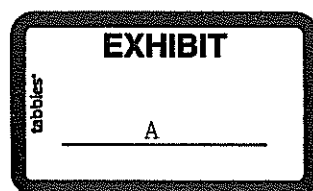
ITN # 0005-2013 Dining Service Operations

This constitutes the University's official notification to withdraw its Notice of Intent to Award dated March 18, 2013 and to withhold the award on the contract and to reject all responses to the ITN in accordance with Sections 3.15 and 3.24 of this solicitation document.

Current Notification: the solicitation for dining services will be reissued as a Request for Proposals.

This posting period commences 10:30 AM on April 15, 2013 and ends 10:30 AM on April 18, 2013.

Failure to file a protest within the time prescribed in FAMU Regulation 6.005 and Section 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes. All bids/proposals/negotiations accepted by the University are subject to the University's Terms and Conditions and any and all additional Terms and Conditions submitted by the Bidder/Proposers/Offerors are rejected and shall have no force and effects. Offers from the vendors listed here are the only offers received timely for the opening date and time. All other offers submitted in response to this solicitation, if any, are hereby rejected as late.



Eric Singer, Esquire
Tel 305-350-2354
Fax 305-351-2170
esinger@bilzin.com

April 16, 2013

VIA MAIL AND E-MAIL


David C. Self, II, Esquire
Associate General Counsel
Florida A&M University
Office of the General Counsel
1601 S. Martin Luther King, Jr., Blvd.
300 Lee Hall
Tallahassee, FL 32307
david.self@famu.edu

Re: ITN No. 0005-2013 / Protest Bond

Dear Mr. Self:

As you know, pursuant to the FAMU regulations, we filed a \$10,000 protest bond with the University on March 28, 2013, in conjunction with Sodexo's formal written protest. On April 15, 2013, FAMU mooted Sodexo's protest by withdrawing the solicitation. Accordingly, because no protest took place and no related costs were adjudged against Sodexo, Sodexo respectfully requests that FAMU return its protest bond in full.

Sincerely,



Eric Singer

cc: Fred Formichella, Senior Vice President
Thomas R. Stanton, Esquire
Albert E. Dotson, Jr., Esquire
Eileen Ball Mehta, Esquire

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