

DECISION

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

29586

FILE: B-215053**DATE:** October 18, 1984**MATTER OF:** Corporate Air Services, Inc.**DIGEST:**

1. In reviewing protests against allegedly improper evaluations, GAO will not substitute its judgment for that of the agency's evaluators, but rather will examine the record to determine whether the evaluators' judgments were reasonable and in accord with listed criteria, and whether there were any violations of procurement statutes and regulations.
2. When the procurement is affected by an OMB Circular No. A-104 cost analysis comparison of various lease proposals, it is incumbent upon a protester challenging the analysis to demonstrate that the analysis was faulty or misleading to a material degree.
3. GAO will not attribute bias to an agency merely on the basis of supposition or conjecture.

Corporate Air Services, Inc. (CASI), the owner of Tanglewood Airport, Quarryville, Pennsylvania, protests the selection of Williamsport-Lycoming County Airport (Williamsport) as the site for the eastern Pennsylvania Automatic Flight Service Station facility under a request for proposals issued by the Federal Aviation Administration (FAA). CASI alleges that the FAA acted improperly in its evaluation of proposals to determine the site most favorable to the government. We deny the protest.

BACKGROUND

The procurement responds to a decision by the FAA to consolidate local flight service stations into a regional

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Automated Flight Service Station (AFSS) facility which will be responsible for all general aviation flight control operations in a 33-county area of eastern Pennsylvania. The facility is to be located at a public-use airport in the area. The FAA determined as the result of a cost analysis conducted pursuant to Office of Management and Budget (OMB) Circular No. A-104, "Comparative Cost Analysis for Decisions to Lease or Purchase General Purpose Real Property" (June 14, 1972), that it would be more economical to lease a structure built by the airport chosen as the site than for the government to construct the facility.

A solicitation was accordingly issued which requested proposals for the lease of 10,000 square feet of floor space of an airport-built facility for an initial 1-year period beginning January 1, 1986, with the right on behalf of the FAA to renew for up to 19 additional 1-year periods. The RFP provided that total life-cycle costs would be the most important factor in the evaluation of lease proposals, such costs including the amount of the lease, one-time costs, maintenance, utility, and service costs, and all other costs associated with a particular site. Eight technically acceptable proposals were submitted, with CASI and Williamsport as the low lease cost offerors. Whereas other airports offered yearly leases for the proposed AFSS facility ranging from \$100,000 to more than \$207,000, the proposals of CASI and Williamsport were unique in that they both offered to lease the proposed AFSS facility to the FAA for the nominal consideration of \$1.00 per year.

Both airports later amended their proposals by offering even more favorable terms to the FAA. CASI proposed to pay the government \$999.00 per year to locate the AFSS facility at Tanglewood, while Williamsport offered to provide funding in the amount of \$125,000 to supplement the cost of installing and equipping a telecommunications system at its site. These amended offers were incorporated into the overall cost comparison analysis conducted by the FAA in accordance with OMB Circular No. A-104 for all eight proposals. It was determined that Williamsport offered the lowest total life-cycle cost for the entire lease period at \$3,925,515, with CASI second low at \$4,284,574.

PROTEST AND ANALYSIS

CASI alleges that the FAA has improperly evaluated proposals in determining the site most favorable to the government. Specifically, CASI urges that the per annum services and utilities costs for its site computed by the FAA at \$350,198, compared with \$336,833 for Williamsport, must be inaccurate since Tanglewood's rural location means that such costs should be lower.^{1/} Additionally, CASI objects to the FAA's cost analysis showing that one-time personnel relocation costs for Tanglewood would be \$880,404 as opposed to \$754,632 for Williamsport. CASI states that since its site is within commuting distance from both Harrisburg and Philadelphia, it is unrealistic for the FAA to believe that all personnel assigned to the AFSS facility would be permanently relocated to Tanglewood if that site were chosen. Lastly, CASI implies that the FAA was biased against its selection because Tanglewood is privately-owned, whereas all other offers were from municipal airports.

In reviewing protests against allegedly improper evaluations, GAO will not substitute its judgment for that of the agency's evaluators, but rather will examine the record to determine whether the evaluators' judgments were reasonable and in accord with listed criteria, and whether there were any violations of procurement statutes and regulations. See D-K Associates, Inc., B-213417, April 9, 1984, 84-1 CPD ¶ 396. In the present matter, much as in protests relating to OMB Circular No. A-76 comparisons of in-house versus contracting costs, see, e.g., Day & Zimmerman, Inc., B-212017, April 3, 1984, 84-1 CPD ¶ 377, the burden is upon CASI to demonstrate that the government's cost analysis in the comparison of evaluated proposals was faulty or misleading to a material degree. CASI clearly has not met that burden here.

^{1/}The per annum costs at issue were then extended over the life of the lease after being adjusted for inflation and discounted to present value dollars in order to reflect total cost in accordance with OMB Circular No. A-104. For purposes of this decision, however, only the FAA's per annum figures need concern us.

The per annum services and utilities cost figures of which CASI complains are composed of electrical costs, leased telecommunications service costs, and janitorial costs. A breakdown of the FAA's cost analysis shows the following amounts computed for Tanglewood and Williamsport:

	Tanglewood	Williamsport
Electrical	\$ 71,298	\$ 71,298
Leased Telecommunications Service	229,899	215,535
Janitorial	49,001	50,000
Total	\$350,198	\$336,833

The FAA states that the electrical costs were computed by obtaining from the Pennsylvania Power & Light Company, which serves both Tanglewood and Williamsport, the estimated cost of electrical service based upon a 108,000 kilowatt-hour per month usage with a 200 kilowatt demand. The Pennsylvania Power & Light Company submitted a monthly estimate of \$5,941.50, which computes to \$71,298 yearly. Since both airports are served by that company, we see nothing inaccurate in the FAA's electrical cost analysis.

The FAA also states that the cost of leased telecommunications service was computed by multiplying the number of particular circuits at the various sites, such as WATS intrastate, radio frequency remote, local exchange, etc., by the appropriate monthly recurring charges. According to the FAA, although Tanglewood and Williamsport have the same number of these circuits, a higher monthly cost of \$19,158.22 was obtained for Tanglewood versus \$17,961.25 for Williamsport because Tanglewood is less centrally located to the FAA's data-gathering facilities and the using public than is Williamsport. Although CASI disputes the statement that Tanglewood is less centrally located, we have no reason to question the FAA's view of the matter, and CASI clearly carries the burden to prove otherwise. See Willis Baldwin Music Center, B-211707, Aug. 23, 1983, 83-2 CPD ¶ 240. Accordingly, there is nothing to indicate that the monthly telecommunications cost estimates are inaccurate, and those figures were correctly extended to the respective per annum amounts of \$229,899 and \$215,535 as provided in the FAA's cost analysis.

CASI has also urged that the FAA should have taken into account the fact that the telephone industry has been deregulated recently and that lower rates might occur as a result. However, we believe the FAA is correct in its position that it would have been impractical to attempt to incorporate the estimated effect of deregulation into the analysis of any proposal. As the FAA states, the existing rates were uniformly applied to all proposals. For that matter, we fail to see how the prospective benefits from deregulation necessarily would have enured more to Tanglewood than to Williamsport or any other site. We believe CASI's argument in this regard is meritless.

The per annum figures for janitorial costs were initially computed at \$50,000 for both Tanglewood and Williamsport, with the figure for Tanglewood being reduced by \$999.00 to reflect CASI's amended offer to pay that amount to the FAA each year for lease of the AFSS if Tanglewood were selected. CASI argues that the adjusted amount of \$49,001 remains too high because Tanglewood is in a rural area and wage rates therefore should be lower than in Williamsport. In our view, however, even if this were true, the lower wage rates would be insignificant in nature and would have a negligible effect upon the overall cost analysis. Further, CASI alleges that the water and sewer charges for Tanglewood would be lower because the airport is on a well and septic system which is cheaper than the public facility rates at Williamsport. We see nothing in the cost analysis to indicate that these services were even taken into consideration, and we believe, as above, that any lower charges relative to Tanglewood's particular system would be of minimal consequence as to the site most favorable to the government.

CASI also alleges that the personnel relocation cost figures computed for Tanglewood are inaccurate. CASI does not believe that all 84 employees needed to man the AFSS facility would have to move permanently to Tanglewood if that site were selected because it is within commuting distance of both Harrisburg and Philadelphia, their former duty stations. We do not agree.

The FAA's analysis determined the one-time cost for personnel relocation by first ascertaining the number of employees that would have to be transferred to a particular site. As Williamsport already had 12 employees in place because it was an existing flight service station, only 72 additional personnel would be required as opposed to 84 for Tanglewood, which had no existing staff because it had never been a flight service station. The FAA then estimated that the adjusted cost per employee to effect a permanent change of station would be \$10,481; thus, multiplying that figure by 72 for Williamsport and 84 for Tanglewood gave respective relocation costs of \$754,632 and \$880,404. Although the FAA did not survey its employees as to their actual intent to change residence if either site were chosen, we see nothing to indicate that the FAA's scenario was unreasonable or that a substantial number would not have relocated to Tanglewood as CASI suggests. We believe that CASI is simply mistaken in its view that Tanglewood is within a reasonable commuting distance of both Harrisburg and Philadelphia. We note that the site is some 40 miles equidistant from both cities, and is reached over mostly secondary roads. In order to prevail in its assertion that the Tanglewood site is most favorable to the government as to total life-cycle cost, CASI would have to establish that at least 35 employees would elect to retain their former residences and commute every day.^{2/} We do not think that CASI can meet that burden in any realistic manner.

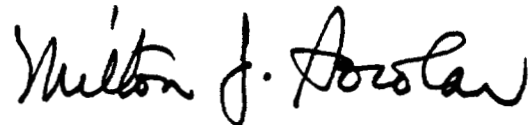
Our examination of the FAA's cost analysis used in the comparison of site proposals shows nothing to substantiate CASI's allegations. The figures are mathematically accurate, and nothing suggests that estimated costs for services and utilities and personnel relocation were arbitrarily derived or inequitably applied. To the extent

^{2/}Since the difference between total site costs is \$359,059 more for Tanglewood, 35 employees not changing their residences would reduce the Tanglewood relocation cost by \$366,835 (35 x \$10,481), therefore materially affecting the comparison of proposals.

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that CASI implies that the FAA is biased against Tanglewood as a site because it is privately-owned, this Office will not attribute bias to an agency on the basis of mere supposition or conjecture. See D-K Associates, Inc., supra. In any event, even if the FAA were not disposed to siting the AFSS facility at a privately-owned airport, there is simply no evidence in the record that the cost analysis was conducted in such a manner that CASI was unfairly evaluated or otherwise prejudicially treated so as to preclude any chance of Tanglewood's selection. See Weardco Construction Corp., B-210259, Sept. 2, 1983, 83-2 CPD ¶ 296.

The protest is denied.



for Comptroller General
of the United States