

NATIONAL RAILROAD PASSENGER CORPORATION
OFFICE OF INSPECTOR GENERAL

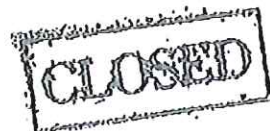
CLOSING REPORT

CASE NO: 04-0187

September 17, 2008

TO: [REDACTED]
Deputy Inspector General/Counsel

FROM: [REDACTED]
Chief Inspector



On July 7, 2008, the Office of the Inspector General ("OIG"), Office of Investigations ("OI") issued a Management Report to [REDACTED], [REDACTED] Engineering Department.

On July 9, 2008, the Office of the Inspector General ("OIG"), Office of Investigations ("OI") issued a Management Report to [REDACTED], [REDACTED] of the Procurement and Materials Management Department.

OI's Recommendations Engineering and Procurement Departments:

The Management Report contained the following recommendations to both Departments for consideration:

"Amtrak Management was aware of a fatally flawed contract provision which required the vendor to complete and Environmental Impact Study ("EIS") and Environmental Impact Report ("EIR") within a requisite 270 days (nine months). This restriction was, by admission of [REDACTED], an impossible task. OI has established that despite this known fact, no one associated with the RFP made any effort to correct the flaw or extend that time frame. [REDACTED] went so far as to admit that he penalized Parsons-Brinkeroff for adhering to that time frame. Future RFP's should be reviewed for content and reasonable time frames should be required to even the playing field for all potential bidders.

Amtrak Management was aware that [REDACTED], [REDACTED] prior to his resignation from Amtrak, nine (9) months earlier, had significantly contributed to developing the criteria utilized in the Request for Proposal ("RFP"). [REDACTED] should not have been allowed to participate in the clarification meetings, as an HDR Inc. employee, which was in preparation to HDR Inc.'s submission of their "best and final offer" ("BAFO"). Management's silence on the issue allowed [REDACTED] (a familiar face in Amtrak) to participate despite the potential for a "conflict of interest" to exist. A more reasonable approach might have included barring [REDACTED] from that meeting and demanded that at least a year pass before he would be allowed to participate in Amtrak related projects.

Amtrak Management had failed to protect Amtrak and the State of [REDACTED] (its customer) from possible civil litigation and ultimately failed to protect those assets entrusted to Amtrak's care. Amtrak Management was made aware, by [REDACTED]'s E-mail dated January 28, 2002 (Exhibit # 4), of the both [REDACTED] and [REDACTED] having divulged what funding had been earmarked for the project and that specifically \$9 Million had been set aside. Amtrak Management failed to address those concerns and allowed the contract to go forward.

Amtrak Management had failed to exclude [REDACTED] from the proceedings. [REDACTED] was, by his own admission, admittedly knowledgeable in what funds had been set aside for this project and enjoyed an unfair advantage of being able to advise his employer (HDR Inc.) what funds were reasonably available for the project. This was especially true because, as the [REDACTED] for Amtrak, he helped develop the RFP that was utilized for the project. [REDACTED]'s participation gave HDR an unfair advantage over the competing vendors.

Amtrak Management acted improperly by allowing and accepting [REDACTED]'s action in reconvening the Technical Evaluation team to rescore the technical aspects of the bidding vendors. [REDACTED]'s actions were admittedly improper by all individuals interviewed. The fact that the "scope of work" had not changed, which might have warranted a re-consideration, demonstrated that there was no need to change the scoring other than to direct the award after the prices had been revealed.

Amtrak Management [REDACTED] further acted improperly by interfering with the fairness of the bid process and circumventing the procurement policy by meeting with [REDACTED], [REDACTED] and revealing that unless [REDACTED] directed Amtrak to stop the procurement procedure the contract would be awarded to Parsons-Brinkerhoff. [REDACTED] advised OI that he was not informed of a second re-scoring by the Technical Evaluations Team and he further advised OI that he was never made aware of the pricing but lead to believe that unless he acted immediately Amtrak would not award the contract until the funding for the project expired.

Amtrak Management must, as a matter of practice, adhere to all the guidelines and procedures when a customer requests that Amtrak procurement procedures be utilized in place of their own State's procurement policies. Although no criminal conduct had been uncovered in this investigation the appearance of improprieties certainly does exist. Failure to adhere to Amtrak Policy exposes Amtrak to financial liability especially when Amtrak Procurement Policy is used to get around State procurement procedures."

[REDACTED] Department's response:

OI received a response from [REDACTED], [REDACTED] on July 22, 2008. [REDACTED]'s response was short and failed to address any of the concerns expressed in the recommendations listed above. [REDACTED]'s response is listed below:

In response to the above referenced management report, I offer the following recommendations:

1. That the Office of the Inspector General recommend to the Human Resources Department that the individuals involved in this report (all of which are no longer Amtrak employees) have their personnel files marked as "ineligible for re-hire."
2. That the Corporate Policy be initiated by Human Resources that restricts any Amtrak employee that leaves Amtrak for any reason, be restricted from direct involvement in any Amtrak business for a period of one year from their separation date and if such policy exists today have it distributed in light of the number of retirements and employee separations that are taking place at this time.
3. Finally, that Procurement issue a letter for full distribution to all departments reinforcing Amtrak's policies and procedures involving procurement of Contracts.

██████ took a defensive position by transferring responsibility to the Human Resources Department and the Procurement and Materials Management Department. ██████ failed to recognize or address the fact that it was ██████ Personnel who, first drafted the Request for Proposal ("RFP") criteria, secondly established the time lines for their completion, thirdly engineering recognized flaws in the RFP and failed to act to even the playing field. ██████ also failed to recognize that it was ██████ Personnel who administered the bidding process, and opted to rescore the grading process while the scope of work remained unchanged. ██████'s response is attached as Addenda #1 to this report.

████████████████████ Department response:

OI received a telephonic request from ██████████, ██████████ on August 14, 2008 requesting a two (2) week extension which was granted. On August 28, 2008 OI received a response from ██████████ concurring with the recommendations identified in the Management Report. In addition to that concurrence ██████████ stated in that response that the following steps will be taken to address the findings identified:

- Amtrak Procurement recently released a major revision to the procurement manual. A detailed training program is being developed and milestones are provided as attachment (a). The training sessions will cover every step of the procurement process and buyers will be tested on their understanding of the procurement policies and procedures
- The events that occurred in the audit will be used to build a case study that will be discussed in breakout groups during the training sessions. Care will be taken to protect confidentiality concerns and the IG will see the draft of the case study for common approval. The case study will provide buyers another opportunity during our training classes to deal with a real world event. This case study will test knowledge of policies/procedures, judgment and escalation strategies.
- Once training is completed, each Procurement manager/director will be required to conduct monthly desk audits (at least three) to ensure compliance with policies

