



SAN FRANCISCO MEDIA CENTER

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Jolie Gines
Protest RFP #04-2009 Public Access Cable Channel Operator
Department of Technology
One South Van Ness Avenue, 2nd Floor
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09 JUL 10 PM 4:07

RE: Protest of The City award of RFP 04-2009 Public Access Cable Channel
Operator to Bay Area Video Coalition BAVC

7/10/2009

The San Francisco Media Center (SFMC) protests the award by the San Francisco Department of Telecommunications (DT) of the public access franchise to Bay Area Video Coalition. While BAVC has done good work in the past in the community, we believe that the award to this organization under BAVC's current proposal violates the RFP requirements because of the following:

1. This proposal does not guarantee continued operation of the main studio and flash studio for all City and County residents regardless of income.
2. This proposal does not insure regular training on equipment including flash studio, main studio, editing suites and production training.
3. There is no proposal for the organized input of community producers and programmers into the development and continued use of community access.
4. The BAVC proposal to have corporate funders playing a major role in the operation and programming of the station violates the RFP that community access station provide equal opportunities for all programmers and users including low income residents of San Francisco, and may also violate Federal guidelines relating to the non-commercial nature of PEG access.
5. The BAVC proposal eliminates the use of one of the channels to all community access producers and instead turns it over to corporate and non-profit entities for their use instead of the community access producers in San Francisco.

6. The BAVC proposal only proposes to have three trainings a year for community access producers. This would severely limit regular trainings for producers, programmers and users of community access in San Francisco. BAVC presently offers many classes in this area, but the high cost of these classes prevents low income community access programmers and producers from attending.. BAVC's proposal also does not integrate these classes into the community access station so that they would be available at low cost to community access producers.

Most importantly, though, this proposal will require that community access producers and programmers upload their work or productions to the channels. This will eliminate local productions and the use of the main studio and flash studio, and will effectively require that local producers have their own studio and/or flash studio capacity – which is simply not realistic. Such a limitation on the participation of those City and County residents who do not have use and ownership of computers and production equipment violates (we believe) the fair and equal use of the facility for all residents of San Francisco which is the essence of public access broadcasting, and may also violate Federal and State constitutional and statutory equal protection provisions.

We believe that this proposal should be rejected, and that DT should go back to the drawing board to find a solution that works for all San Franciscans. Our group, the SFMC, is happy to participate in that process in whatever way the City might find helpful. On the other hand, if DT accepts this proposal, it will have played a role in the effective elimination of community access as a facility for all residents of San Francisco regardless of income and ability to produce programming.

Steve Zeltzer

A handwritten signature in black ink, appearing to read "Steve Zeltzer", with a long, sweeping horizontal stroke extending to the right.

Chair
San Francisco Media Center SFMC

CITY AND COUNTY OF SAN FRANCISCO

DEPARTMENT OF TECHNOLOGY



Chris A. Vein
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July 17, 2009

Steve Zeltzer
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San Francisco, CA 94172

RE: Protest of the City Award of RFP 04-2009 Public Access Cable Channel Operator to Bay Area Video Coalition ("BAVC")

Dear Mr. Zeltzer:

This letter is a formal response to the San Francisco Media Center ("SFMC") protest letter for the City's award of the above-referenced RFP to BAVC, dated July 10, 2009.

The City finds no basis for any of the claims set forth in SFMC's protest. According to the RFP, "[t]he protest must be signed by an individual authorized to represent the proposer, and must cite the law, rule, local ordinance, procedure or RFP provision on which the protest is based." SFMC cites no law, rule, local ordinance, procedure or RFP provision on which its claims are based, and provides insufficient facts and evidence to support the validity of the protest. Each of SFMC's individual claims is addressed below.

Claim #1: This proposal does not guarantee continued operation of the main studio and flash studio for all City and County residents regardless of income.

This claim contains no valid ground for protest. The RFP does not include a specific requirement for continued operation of the main studio and flash studio. The RFP states that, due to loss of operating funding under new state video franchising laws, prior service levels can no longer be supported. Therefore, the RFP allows flexibility in proposed service levels to ensure that primary services are sustainable. SFMC cites no other law, rule, local ordinance, procedure or RFP provision on which this claim is based.

Claim #2: This proposal does not insure regular training on equipment including flash studio, main studio, editing suites and production training.

This claim contains no valid ground for protest. The RFP does not include a specific requirement for regular training on equipment including flash studio, main studio, editing suites and production training. The RFP states that, due to loss of operating funding under new state video franchising laws, prior service levels can no longer be supported. Therefore the RFP allows flexibility in proposed service levels to ensure that primary services are sustainable. SFMC cites no other law, rule, local ordinance, procedure or RFP provision on which its claims are based.

Claim #3: There is no proposal for the organized input of community producers and programmers into the development and continued use of community access.

This claim contains no valid ground for protest. The RFP does not include a specific requirement for organized input of community producers and programmers into the development and continued use of community access. The RFP does require a detailed plan for channel administration, oversight and governance, including “policies to ensure openness and transparency for all meetings and actions taken by the governing body.” BAVC addressed this requirement in its proposal. SFMC cites no other law, rule, local ordinance, procedure or RFP provision on which its claims are based.

Claim # 4: The BAVC proposal to have corporate funders playing a major role in the operation and programming of the station violates the RFP that community access stations provide equal opportunities for all programmers and users including low income residents of San Francisco, and may also violate federal guidelines relating to the non-commercial nature of PEG access:

This claim contains no valid ground for protest. The RFP specifically requires proposals to include a plan for obtaining additional funding, and requires applicants to identify specific funding sources. BAVC’s proposal includes such funding sources, all of which are non-profit entities. SFMC cites no other law, rule, local ordinance, procedure or RFP provision on which its claims are based.

Claim # 5: The BAVC proposal eliminates the use of one of the channels to all community access producers and instead turns it over to corporate and non-profit entities for their use instead of the community access producers in San Francisco.

This claim contains no valid ground for protest. BAVC proposes to deliver “local, national and international content on the second channel through a connected network of public media content providers” (p. 6) and to invite submission of content from such nonprofit sources (p. 9). Providing such content on the second public access channel violates no law, ordinance or RFP term, and in fact the current operator already provides non-local programming on this second channel. SFMC cites no other law, rule, local ordinance, procedure or RFP provision on which its claims are based.

Claim # 6: The BAVC proposal only proposes to have three trainings a year for community access producers, programmers and users of community access in San Francisco. BAVC presently offers many classes in this area, but the high cost of these classes prevents low income community access programmers and producers from attending. BAVC's proposal also does not integrate these classes into the community access station so that they would be available at low cost to community access producers.

This claim contains no valid ground for protest. The RFP does not include a requirement for any specific number of regular trainings. The RFP states that, due to loss of operating funding under new state video franchising laws, prior service levels can no longer be supported. Therefore, the RFP allows flexibility in proposed service levels to ensure that primary services are sustainable. SFMC cites no other law, rule, local ordinance, procedure or RFP provision on which its claims are based.

Claim # 7: This proposal will require the community access producers and programmers upload their work or productions to the channels. This will eliminate local productions and the use of the main studio and flash studio, and will effectively require that local producers have their own studio and/or flash studio capacity – which is simply not realistic. Such a limitation on the participation of those City and County residents who do not have use and ownership of computers and production equipment violates (we believe) the fair and equal use of the facilities for all residents of San Francisco which is the essence of public access broadcasting, and may also violate Federal and State constitutional and statutory equal protection provisions.

SFMC's final claim contains no valid ground for protest. BAVC proposes to allow producers who have the ability to upload their own content to do so, but it also proposes to provide services at multiple community sites to assist those unable to upload their own content. The proposal states that BAVC will offer "multiple points of engagement with public access producers including training at our facility and *at multiple community access partner sites*" (p.13). BAVC's proposal also states that it will provide digital production packages to nonprofit partners, which will allow "distributed access to equipment for the public *via diverse community sites*" (pp.25-26).

Furthermore, even if SFMC's characterization of the proposed service were true, SFMC offers no evidence that the practice would violate any Federal or State equal protection laws, or would constitute an unfair or discriminatory use of public access facilities.

SFMC cites no other law, rule, local ordinance, procedure or RFP provision on which its claims are based.

The City appreciates the concerns identified by SFMC and will consider them as it negotiates a final agreement with BAVC.

The City takes the public access mission seriously—it is committed to negotiating the highest level of services possible given current funding limitations, and will oppose any terms or conditions that would restrict or deny available services to any City residents, including low-income and other vulnerable populations.

Please contact me at 415 581 3974 if you have any further questions.

Very truly yours,



Jolie Gines

Contract Administration

cc: Barry Fraser, Department of Technology
Margarita Gutierrez, City Attorney
Jennifer Gilomen, Bay Area Video Coalition
Ken Ikeda, Bay Area Video Coalition
Ron Vinson, Department of Technology