



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: The Production Company

File: B-281503

Date: February 18, 1999

Nancy H. Stark for the protester.
Lyman Goon, Esq., Social Security Administration, for the agency.
Wm. David Hasfurther, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency's issuance of an order to vendor that submitted lower-rated, lower-priced quotation in a best value procurement (where request for quotations stated that price was secondary to the three technical factors combined) is unobjectionable where the contracting officer performed a rational assessment of the competing quotations and reasonably determined that the price premium associated with the protester's higher-rated, higher-priced quotation was not justified given the acceptable level of technical capability available at the lower price.

DECISION

The Production Company protests the issuance of an order to The A'Hern Group under Social Security Administration request for quotations (RFQ) No. SSA-RFQ-98-3542, a commercial item acquisition. The protester argues that it should have received the order because its quotation was rated the highest technically.

We deny the protest.

The RFQ requested quotations for the production of a videotape explaining the Social Security Administration's policy on adjudicating disability claims involving neurological laboratory tests. The RFQ basically advised that the order would be issued to the vendor which represented the best overall value to the Government. The RFQ further stated that "[m]eeting the requirements of the statement of work and experience and past performance, when combined [were] the most important factors for award. Price is secondary." RFQ Addendum I, at 29. Vendors were also required to submit with their quotation a videotape containing three 10-minute segments from three different video programs produced by the offeror in the past 5 years. The videotape was to be evaluated for creativity and technical quality. Id.

The Social Security Administration received seven quotations. After evaluation of the quotations by the evaluation review panel (ERP), only the quotations of Production and A'Hern were found acceptable. The ERP awarded Production the highest possible score of 5 (on a scale of 0 to 5) under each evaluation factor--compliance with the SOW requirements, experience, and past performance. Production also received a score of 5 for its videotape presentation, and an overall rating of 5. The ERP noted that Production had done an excellent job in producing similar medically-related videos for the agency and that its scriptwriter/director's extensive experience in this area would ensure the production of a high quality videotape under any award. The ERP strongly recommended that Production be given the work. A'Hern's quotation received scores of 5 for experience and past performance. However, A'Hern was given an overall score of 4 because of the score of 3 given its videotape presentation. The ERP found that "[t]he sample video was of acceptable quality . . . [h]owever, a form was used at one point, which the viewer could not clearly discern what was on it." Further, the "presentation of the information was not linear enough for the subject material being presented, which was somewhat confusing." The ERP found that A'Hern had extensive experience with various governmental agencies, having "produced 100s of films and videotapes . . . over the past 30 years." It also received favorable past performance ratings from clients on prior contracts. Technical Evaluation Report, Sept. 29, 1998, at 1-3. Production's price was \$56,619; A'Hern's price was \$31,527. Summary of Award Without Discussions at 4.

The contracting officer (the source selection official) determined that "it was not in the government's best interest to pay an additional \$25,000 for the services, by making an award to the highest technically acceptable offeror the Production Company." She noted that "[t]he project team believes the [A'Hern] Group can provide the services as required by our solicitation at the prices quoted." Summary of Award Without Discussions at 5. The record also shows that, prior to making her selection decision, the contracting officer asked the project officer, who was a member of the ERP, for her overall evaluation of A'Hern. The project officer responded that "this is to confirm that I do believe the A'Hern Group has a good understanding of our requirements [necessary] to produce the . . . videotape, based on the information they have submitted." Contracting Officer E-Mail Query and Fax, Sept. 10, 1998.

Production protests the contracting officer's best value determination as unreasonable and inconsistent with the RFQ's statement that the technical factors combined were the most important factors and that price was secondary. It contends that price was improperly used to override the importance of the technical evaluation, including the videotape evaluation. Production Comments, Dec. 22, 1998, at 1-4. Production argues that A'Hern's videotape--which, the protester

contends, should be the most reliable means of determining a company's skills, experience, and capabilities-- received a score of, at best, adequate, and therefore the contracting officer unreasonably concluded that A'Hern's quotation represented the best overall value to the agency. Id. at 4-7.

Notwithstanding, as here, a solicitation's emphasis on technical merit, an agency may properly select a lower-priced, lower technically scored quotation if it decides that the price premium involved in selecting a higher-rated, higher-priced quotation is not justified given the acceptable level of technical competence available at the lower price. See Dayton T. Brown, Inc., B-229664, Mar. 30, 1988, 88-1 CPD ¶ 321 at 4. The determining element is not the difference in technical merit, per se, but the contracting agency's judgment concerning the significance of that difference. Id. at 4-5. In this regard, evaluation scores are merely guides for the source selection authority, who must use his or her judgment to determine what the technical difference between the competing quotations might mean to performance of the work, and who must consider what it would cost to take advantage of it. See Grey Adver., Inc., B-184825, May 14, 1976, 76-1 CPD ¶ 325 at 9-10. In making such determinations, the source selection authority has broad discretion, and the extent to which technical merit may be sacrificed for price or vice versa, is limited only by the requirement that the tradeoff decision be reasonable in light of the established evaluation and source selection criteria. Id. at 12.

The contracting officer's selection of A'Hern was reasonable. Here, the contracting officer, cognizant that placing an order with Production would be at a price significantly higher (84 percent higher) than A'Hern's price, reviewed the evaluation record to determine whether paying the price premium was justified. Her review showed that both firms received the highest possible scores for experience and past performance. She noted that the difference in the overall rating was the rating of the sample video--Production received a perfect score and A'Hern received a "3." She reviewed the ERP's specific concerns with A'Hern's videotape presentation, and concluded that "[t]his objection appeared to me to be one which could be readily corrected by editing and inspection of the training tape." She further noted A'Hern's "breadth of experience" in producing hundreds of government training films dating back to 1948. She determined that A'Hern understood the statement of work and what would be required of the firm and that the hours and tasks that A'Hern proposed to accomplish these requirements were reasonable and could be accomplished at its quoted price. Based on her review of the evaluation record, she concluded that the firm was capable of producing an acceptable product. Contracting Officer's Declaration at 1-3; Summary of Award without Discussions at 5. She also discussed A'Hern's capabilities with the project officer. Contracting Officer E-Mail Query and Fax, supra.

In sum, the contracting officer determined that A'Hern could produce a videotape consistent with the statement of work at a substantially lower price. Although

Production obviously disagrees with the contracting officer's tradeoff decision, there is nothing in the record to establish that the contracting officer's decision was not consistent with the record or an abuse of discretion. See CVB Co., B-278478.4, Sept. 21, 1998, 99-1 CPD ¶ ____.

The protest is denied.

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