



The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

Matter of: Heritage Reporting Corporation  
File: B-228008  
Date: October 15, 1987

## DIGEST

The contracting agency's evaluation of the protester's proposal under the evaluation factors for previous experience with the agency and management and support personnel experience and capability was reasonable where the agency had limited experience with the protester compared to the awardees of the protested contracts, and the protester's performance of a contract with the agency had been faulty.

## DECISION

Heritage Reporting Corporation protests the award of contracts for electronic court reporting services for the Northwest, Southeast, South Central and Western regions under request for proposals (RFP) No. 87-2013, issued by the United States Tax Court. Heritage basically contends that the Tax Court improperly evaluated and downgraded its proposal to deny the firm the four protested contracts.

We deny the protest.

The RFP assigned a total of 100 points to the following evaluation factors for award: cost (35 points); previous experience with the Tax Court on similar projects (25 points); equipment inventory for use on this project (20 points); and experience and capability of management and administrative support personnel (20 points). The RFP advised offerors that the government would award contracts resulting from the solicitation to responsible offerors whose offers conforming to the solicitation would be most advantageous to the government, cost and other factors considered.

The Tax Court issued 120 solicitations and received four proposals in the Northeast region, three in the Southeast region, two in the North Central region, two in the Midwest region, two in the South Central region and three in the Western region. The proposals were submitted by a total of

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seven offerors, whose best and final offers were evaluated on July 9, 1987, in accordance with the RFP's evaluation criteria. Heritage was awarded contracts for the North Central and Midwest reporting regions.

Heritage contends that it failed to receive the four other contracts because the Tax Court did not properly evaluate its proposal in two areas--previous experience with the Tax Court on similar projects, and experience and capability of management and administrative support personnel. Heritage maintains that its proposal improperly was downgraded because of performance problems experienced by Acme Reporting Company whose assets, including the right to perform certain Tax Court contracts, Heritage purchased in January of 1987. The protester also contends that the Tax Court did not give Heritage full credit for contracts it has performed itself since it commenced business as an independent concern in early January.

The contracting agency has broad discretion in determining the relative merits of technical proposals since it must bear the consequences of any difficulties incurred by reason of a defective evaluation. Miller Printing Equipment Co., B-225447.2, Mar. 24, 1987, 87-1 CPD ¶ 337. Our review is limited to examining whether the agency's evaluation was fair and reasonable and consistent with the stated evaluation criteria. Seville Management Corp., B-225845, Mar. 18, 1987, 87-1 CPD ¶ 308.

The evaluation record does indicate that the Tax Court did not ignore Acme's performance record in evaluating Heritage's experience. For example, the evaluators noted that much of the government business to which Heritage referred in its offer had been obtained through novation agreements involving Acme, and concluded that Heritage ought to accept some responsibility for Acme's reputation--"chronic problems with quality, timeliness and billing"--if it wanted to take credit for Acme's client list.

As explained in the Tax Court's report on Heritage's protest, however, it was in fact Heritage's own lack of experience, and the Tax Court's lack of experience with Heritage, on which the evaluation of the proposal was founded and Heritage assigned 20 of the maximum 25 points available for previous experience under the first experience factor. The Tax Court evaluators noted that at the time of the evaluation of offers, the Tax Court had only 6 months of experience with Heritage, which was far less experience than it had with the three companies that were awarded the protested contracts. (One firm was awarded two contracts.) The record shows that those companies that had been working as prime contractors for the Tax Court longer than Heritage

received more points in the experience category (based on the length of their experience and the quality of their performance), and those with less Tax Court experience were awarded fewer points.

The Tax Court's evaluation of Heritage under the management criterion focused on the offeror itself:

"Heritage's elaborate management plan . . . looks good on paper. However, the record shows that in the six month period since January 1, 1987, Heritage was the only contractor to deliver late transcripts (60), 15 of which were over 15 days late. Heritage had more transcripts returned for corrections than any other contractor. Heritage intends to use a subcontractor . . . that [the incumbent] discontinued using because of poor quality of their work."

In contrast to Heritage's evaluation, Ann Riley & Associates, the incumbent contractor and awardee in the Northeast region, scored higher than Heritage overall and in both evaluation areas in issue based on its exemplary past performance both with the Tax Court and other government agencies. The record also indicates that the awardee managed the Northeast contract extremely well, routinely delivering transcripts before due dates.

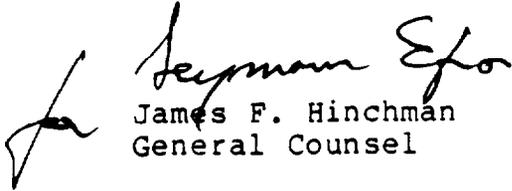
With regard to On The Record Reporting (OTRR), the awardee of the Southeast and South Central contracts, the record indicates that the firm was the prime contractor in the South Central region since September 1, 1985, and that the Tax Court had no problem with the firm's contract performance during the entire period. Additionally, the record indicates that the awardee has excellent management and quality control and has never had a late transcript or a transcript returned for corrections.

The record shows that the performance record of V/ARS, the incumbent contractor and awardee in the Western region, has been excellent and that the contractor's administrative staff has demonstrated the ability to do consistent quality work.

On this record, we cannot say that Heritage's lower scores in the evaluation areas in issue were unreasonable.

Accordingly, we have no legal basis upon which to question the Tax Court's awards of the protested contracts.

The protest is denied.

A handwritten signature in cursive script, appearing to read "James F. Hinchman".

James F. Hinchman  
General Counsel