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**Comptroller General
of the United States**

**United States General Accounting Office
Washington, DC 20548**

Decision

Matter of: Daly Associates

File: B-287908

Date: August 2, 2001

Lawrence T. Daly for the protester.
Anne Marie Donovan for Donovan Training and Development, an intervenor.
Maj. Robert W. Clark, Department of the Army, for the agency.
Linda C. Glass, Esq., and Michael R. Golden, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Protest of agency's evaluation of quotations is denied where record shows that evaluation was reasonable and consistent with applicable evaluation factors.

DECISION

Daly Associates protests the issuance of a purchase order to Donovan Training and Development (DTD) under request for quotations (RFQ) No. DABT43-01-T-0026, issued by the Department of the Army, United States Army War College and Carlisle Barracks, for facilitating, leadership and group skills training (FLAGS). Daly principally contends that the agency's evaluation was unreasonable and that Daly should have been selected for award.

We deny the protest.

The solicitation, issued February 28, 2001, as a total small business set-aside, contemplated the issuance of a fixed-price order for commercial services. The RFQ stated that the primary goal of the acquisition is to enhance military spouses' facilitating, leadership and group skills to prepare them to constructively influence and to positively interact with the military communities within which they live. RFQ ¶ 1.2. The second goal is to develop Army War College students' spouses as instructors/trainees to teach the contractor's FLAGS program to small groups of other spouses at the Army War College each academic year. RFQ ¶ 1.3. The RFQ provided for issuance of the order to the vendor whose quotation would be most advantageous to the government considering the evaluation factors of technical and price. The RFQ provided that technical was significantly more important than price.

The technical factors, listed in descending order of importance, were experience of personnel, understanding of the agency's needs, management plan, and past performance. The RFQ further provided that, in selecting the best overall quotation, the government would consider the value of each quotation in terms of the quality offered for the cost.

Four quotations were received, including those from Daly and DTD, the incumbent. The quotations were evaluated by the source selection evaluation board (SSEB) and all four quotations were determined to be technically acceptable. The protester submitted the low price of \$72,240. DTD submitted the second lowest price of \$92,250. The board determined that the quotation submitted by DTD represented the best value to the government and recommended award to DTD. Agency Report, Tab I. The board concluded that DTD's experience and background were a "perfect match" for the FLAGS program and that DTD's proven record in the field "ideally" qualified it for selection. Id. While DTD did not submit the lowest price, the board determined that DTD's price was within an acceptable range and reflected the value of the experience the firm brought to performance of the work. Id. The contracting officer reviewed the board's findings and disagreed with the board's decision. The contracting officer believed that the protester's lower price more than compensated for the advantages offered by the incumbent. The contracting officer advised the source selection authority (SSA) of his opinion concerning the award selection. Agency Report, Tab A. The SSA decided to return the evaluation to the board with instructions to establish a checklist of important technical sub-factors for each board member to individually rate each proposal, then use the checklist to arrive at a consensus on a recommendation and to rewrite the SSEB report. Id.

The board reevaluated the Daly and DTD quotations with the intent of providing the contracting officer and SSA more specific data as to the basis for the selection decision. In its reevaluation, the board used a decision matrix that reflected the technical factors, contractor qualifications, and statement of work. Agency Report, Tab H. After the reevaluation, the board again selected DTD's quotation as providing the best value to the government. Agency Report, Tab G. The board noted that DTD scored consistently higher than the protester in the technical factors of experience, understanding of the agency needs, management plan, and past performance. Id.

The record shows that the evaluators found that DTD represented the best value for several reasons. First, DTD's principal possessed a master's degree in education with a focus on "psychoeducational process," a degree the evaluators concluded was directly related to the statement of work (SOW); the protester had a master's degree in English. Second, the evaluators found that the instructor certifications of DTD's principal were more numerous and more relevant than the protester's certifications. Third, DTD's experience as the incumbent demonstrated an understanding of the specific needs of the Army War College. Fourth, DTD's work experiences with military groups, especially military spouse and family groups, were current, while the protester's last military experiences appeared to date back to 1987. Fifth, the evaluators also noted that the FLAGS program is a program focused on the issues

related to military spouses and the spouses of military leaders and that DTD's principal had been the spouse of a military leader and had extensive experience in training military spouses. In contrast, the protester's experience, although "impressive," did not focus on the military spouse's perspective. Lastly, the evaluators found DTD's publications to be directly related to family and military spouse issues, while the protester's publications related to organizational management, history, and English.

Both the contracting officer and the SSA concurred with the board's recommendation and, on May 11, the purchase order was issued to DTD. On May 21, the protester was provided a telephone debriefing. On May 24, the protester filed a protest with our Office alleging that the agency improperly evaluated its quotation and that the agency had a bias against the protester in favor of DTD, the incumbent. Specifically, the protester challenges the agency's evaluation and maintains that its quotation demonstrated that it had the required skills and was superior to the awardee's quotation because of its demonstrated 20 plus years of experience in the field, its 25 years of army service, and its detailed description of how it would perform the work required by the RFQ. The protester maintains that while DTD's quotation stressed the level of effort necessary to deliver the required classes, briefing interviews, and workshops, the quotation nonetheless did not address certain requirements of the RFQ.¹

In reviewing a protest against an agency's evaluation of quotations, we examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. Support Servs., Inc., B-282407, B-282407.2, July 8, 1999, 99-2 CPD ¶ 30 at 3. We conclude that the agency's evaluation and selection decision here were reasonable.

As noted above, the agency identified a number of reasons why DTD's quotation represented the best value to the government. For example, the SSA concluded that the educational background of DTD's principal was superior to the protester's

¹ In its comments, filed with our Office on July 10, the protester's raises several instances where the DTD quotation allegedly failed to meet a number of the RFQ requirements. For example, the protester argues that the DTD quotation failed to provide a resume and failed to provide the required past performance information, such as two points of contact telephone numbers, type of contract, amount of contract, and period of performance. Also the protester alleges other representations by DTD in its quotation may be inaccurate. The record shows that the protester had a complete copy of DTD's quotation when it filed its initial protest with our Office on May 25. We therefore find these issues to be untimely and not for consideration on the merits as they were required to be raised within 10 days after the basis of protest was known or should have been known. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (2001).

because DTD's principal had a more relevant master's degree. We have no basis to question the SSA's conclusion that DTD's principal's degree in education was more relevant than Daly's master's degree in English. The record further shows that DTD's experience and publications were more current and directly related to family and military spouse issues. The record also shows that DTD had current working experience with military spouse and family groups, while the protester's last military experience dated back to 1987. DTD's listed publications included articles specifically related to military family issues, such as the paper entitled The Military Family: A Partnership Approach to National Security. The protester, however, listed articles that dealt primarily with history and organizational management in general with no specific emphasis on military family issues. In sum, based on the record, we see no basis to question the agency's conclusion that DTD submitted the superior quotation and thus represented the best value to the government notwithstanding its higher price.

To the extent the protester contends that it should receive the order because of its lower price, where, as here, the solicitation indicates that technical considerations are more important than price considerations, selection of a technically superior, higher-priced quotation is proper where the record shows that the price premium was justified in light of the quotation's technical superiority. Dynamics Research Corp., B-240809, Dec. 10, 1990, 90-2 CPD ¶ 471 at 2. Here, the record supports the agency's decision to issue a purchase order to DTD based on the technical superiority of its quotation.

Daly alleges that the agency was biased in favor of DTD. Specifically, the protester states that during the debriefing, agency personnel stated that DTD's principal "looked like she had a better ability to relate to the student as a spouse." The protester interpreted this statement to mean that the agency was looking for a woman. Government officials are presumed to act in good faith; we will not attribute unfair or prejudicial motives to procurement officials on the basis of inference or supposition. Triton Marine Constr. Corp., B-250856, Feb. 23, 1993, 93-1 CPD ¶ 171 at 6. The agency states, and the record reflects, that its evaluation was not based on the fact that DTD's principal was a woman, but that the experience of DTD's principal as the spouse of a former battalion commander would be helpful in relating to the audience. The agency's consideration of the experience and capability of DTD personnel was reasonable and consistent with the evaluation criteria.

Lastly, the protester also asserts that issuance of the purchase order to DTD was tainted because the leader of the evaluation board was listed as the current contract point of contact by DTD and therefore had undue influence on the board's decision. When a protester alleges bias or conflict of interest on the part of a evaluation official, we focus on whether the official exerted improper influence in the procurement on behalf of the awardee or against the protester. George A. Fuller Co., B-247171.2, May 11, 1992, 92-1 CPD ¶ 433 at 4. Here, we find no evidence of an improper conflict of interest or of improper influence. We see no impropriety in the

chair of the evaluation board being listed as the point of contact for one of DTD's contracts.

The protest is denied.

Anthony H. Gamboa
General Counsel

