



Decision

Matter of: Delta Dental Plan of California, Inc.

File: B-260461; B-260461.2

Date: June 23, 1995

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DIGEST

Protester was not prejudiced by flaws in the agency's technical evaluation where it lost the competition not on the basis of unrewarded technical merit, but rather on the basis of its uncompetitive price, after being advised during discussions that the agency would consider discounted proposals for dental services provided to dependents of active duty service members and after acknowledging that to be competitive, it would have to offer a discounted fee arrangement.

DECISION

Delta Dental Plan of California, Inc. protests the award of a contract to United Concordia Companies, Inc. (UCCI) under request for proposals (RFP) No. MDA906-94-R-0006, issued by the Office of Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS) for the Active Duty Dependents Dental Program. See 10 U.S.C. § 1076a and 32 C.F.R. § 199.13 (1994). Delta challenges the evaluation of its proposal and the award to UCCI, which submitted a lower-priced proposal, contending that OCHAMPUS converted

*The decision issued on June 23, 1995, contained proprietary information and was subject to a General Accounting Office protective order. This version of the decision has been redacted. Deletions in text are indicated by "[deleted]."

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the evaluation and award methodology from one requiring a comparative evaluation of proposals, with technical merit being considered more important than price, to one favoring the lowest-priced, technically acceptable proposal.

We deny the protests.

BACKGROUND

The RFP contemplated the award of a firm, fixed-price requirements contract for a base period with 4 option years for specified dental services to be provided to dependents (known as "beneficiaries" under the program) of active duty service members in the United States, the District of Columbia, Puerto Rico, Guam, and the United States Virgin Islands. Offerors were required to submit unit prices for each period of contract performance for monthly individual and family premiums. Under the program, the government will pay 60 percent of any premium and the service member will pay 40 percent. The contractor will be paid fixed rates for individual and family premiums based on actual enrollments each month. Because this is a firm, fixed-price contract, the contractor is "at risk" to pay all administrative and benefit costs for dental services provided under the contract.

Successful implementation of this program involves two basic requirements--development of a network of participating providers and development of a benefit payment system. The RFP requires the contractor to develop and maintain a participating provider network "no later than the start work date" in the above-referenced geographic service areas. The RFP states that "[t]he minimum access [for a beneficiary to the network] will be for a dental appointment with at least one participating general dentist within [21] calendar days and within a radius of [35] miles of the beneficiary's residence." The RFP also requires the contractor to maintain and manage a benefit payment system. The RFP requires that payment to participating providers be established in a manner which provides a financial incentive for participation when compared to the prevailing fee level of nonparticipating providers,¹ that is, payment must be above the 50th percentile, or the provider's actual charge, whichever is lower. A fee is at the "50th percentile" if,

¹Participating providers are dentists who agree to accept the contractor's determination of payment as payment in full for dental services rendered, less the beneficiary's cost-share. Nonparticipating providers do not agree to accept the contractor's determination as payment in full and may "balance bill" the beneficiary to recover the full charge for services rendered.

for a given procedure and geographic area, 50 percent of the procedures performed are billed at or below that fee.

The RFP's statement of work (SOW) included the following 11 tasks: insurance policy; benefits; eligibility; enrollment; claims processing; program integrity; fiscal management and controls; management; support services; automatic data processing (ADP); and transitions. Each of these tasks was described by minimum quantitative and/or qualitative technical requirements. The RFP required offerors to describe each task in their technical proposals; to commit to accomplishing each task; and to describe the process involved in accomplishing each task.

The RFP stated that the contract would be awarded to the firm whose proposal was deemed most advantageous to the government, price and technical evaluation factors considered. The RFP provided that in selecting the most advantageous proposal, technical evaluation factors would receive a weight of 60 percent and price would receive a weight of 40 percent.

The technical evaluation factors corresponded to the 11 SOW tasks, as well as experience/performance. Since experience/performance was not an SOW task, the RFP otherwise explained that an offeror's corporate experience would be evaluated in light of the firm's past and present successful and continuous experience and performance in dental benefits delivery, national dental insurance accounts, accomplishments in premium and organizational stability, and qualifications necessary to satisfy the requirements of the RFP. The RFP listed the evaluation factors in descending order of importance, and although percentage weights were not disclosed in the RFP, these factors were weighted as follows:

- (1) Claims processing ([deleted] percent)
- (2) Management ([deleted] percent)
- (3) Support services ([deleted] percent)
- (4) ADP ([deleted] percent)
- (5) Program integrity ([deleted] percent)
- (6) Insurance policy ([deleted] percent)
- (7) Fiscal management and controls ([deleted] percent)
- (8) Experience/performance ([deleted] percent)
- (9) Transitions ([deleted] percent)
- (10) Benefits ([deleted] percent)
- (11) Eligibility ([deleted] percent)
- (12) Enrollments ([deleted] percent)

The technical evaluation factors were comprised of [deleted] subfactors reflecting the minimum quantitative and/or qualitative technical requirements discussed in the

SOW for each task. As relevant to these protests, for the claims processing, management, and support services evaluation factors, a significant number of the subfactors were written as objective, quantitative minimum requirements. The RFP stated that "[a] higher score is available to an offeror who presents a proposal which technically exceeds minimum requirements and benefits the government."

With respect to price, the RFP included the same fixed estimated individual and family enrollment quantities for the base period and each option year. The RFP stated that for evaluation purposes, the offeror's proposed monthly "unit price" for individual and family premiums would be multiplied by the government-provided "estimated [enrollment] quantities" to arrive at a total monthly individual and family premium "amount." This "amount" would be multiplied by 12 months to arrive at an annual total for each contract period. The RFP stated that the grand total for all contract periods would be used for evaluation purposes to determine the total contract price to the government.² The RFP also provided that an offeror's price would be evaluated for reasonableness, completeness, realism, and affordability.

Finally, the RFP stated that after receipt of best and final offers (BAFO), a "best buy" analysis would be prepared to determine the proposal with the best combination of technical merit and price. In determining the most advantageous proposal, OCHAMPUS reserved the right to award to other than the offeror submitting the "best buy" proposal.

Four firms, including Delta, the incumbent contractor since the inception of this program in 1987, and UCCI, a subsidiary of Pennsylvania Blue Shield (PaBS), the largest Blue Shield organization in the nation, submitted initial technical and price proposals. Delta has an established national network of dental providers (approximately 109,000 providers) and has over 39 years of experience in processing claims for dental benefits. UCCI has regional, as opposed to national experience, but as an affiliate of PaBS, covers over 2 million dental beneficiaries, more than currently enrolled in this program (approximately 1.9 million beneficiaries).

²The RFP noted that the estimated number of enrollments was provided for informational purposes only and did not represent a commitment by the government that this number of enrollments actually would be processed or paid.

OCHAMPUS's source selection evaluation board (SSEB) evaluated technical proposals. The SSEB assigned adjectival ratings (unsatisfactory, less than satisfactory, satisfactory, more than satisfactory, and exceptional)³ to the technical evaluation factors which corresponded to its assessment of the technical merit of each offeror's proposed approach for accomplishing a particular task. The evaluators were instructed that evaluation narratives were only required for ratings above and below "satisfactory," there being no similar instruction to provide narratives for "satisfactory" ratings. Accordingly, on their worksheets, the evaluators included narratives for adjectival ratings above and below "satisfactory," but offered no substantive explanation for why particular aspects of an offeror's technical approach were rated "satisfactory." After the assignment of adjectival ratings and the calculation of raw scores for each proposal, the SSEB chairmen converted raw scores to weighted scores in accordance with the weights assigned to each of the evaluation factors.

All four proposals were included in the competitive range, and written and oral discussions were conducted with each of the offerors. In response to concerns raised by Delta, it was advised during oral discussions, as reflected in the written transcript, that:

"[i]f [Delta] can demonstrate and persuade the technical side that [it] will provide an enhanced level of service or will provide the requirements of the RFP in a more substantial manner, logically

³The relevant adjectival ratings were defined as follows:

Satisfactory--Offeror's approach "meets all minimum requirements of the specifications."

More than satisfactory--Offeror "describes a proposed system, procedure, or method to exceed the minimum requirements to a limited degree. [Offeror] clearly understands the needs and objectives of the [program]." (Emphasis in original.)

Exceptional--Offeror "describes a proposed system, procedure, or method to markedly exceed minimum requirements. The proposal is innovative and/or will provide a high, cost-effective level of services and/or will provide a high level of accuracy and effectiveness in the delivery of the contract specification/standard. [Offeror] [e]xhibits a high degree of understanding of the needs and objectives of the program."

that would create a higher score which would be reflected in the best buy."

In addition, Delta was told during oral discussions, also as reflected in the written transcript, that "[a] decision has been made [to] allow a PPO [preferred provider organization] network as long as the access requirements [21 days/35 miles] can be met." Delta responded that this "is a change of such magnitude that it . . . certainly would change the competitive nature of . . . the contract entirely. You're talking there about fee reductions of [deleted] percent." Delta continued, "[s]o if the government will entertain PPO proposals . . . the only way any offeror could be competitive would be to change [its] offer to [a discounted fee arrangement] format. And that's what we would have to do."

Following discussions, each offeror submitted a timely BAFO. With respect to Delta and UCCI, the SSEB concluded that each offeror had addressed identified weaknesses in their proposals and accordingly, for each technical evaluation factor, the SSEB assigned final adjectival ratings of "satisfactory" or higher. For all offerors, the SSEB rated 94 percent of all subfactors as "satisfactory." The "satisfactory" ratings were not supported by substantive evaluation narratives. For Delta and UCCI, out of a possible 1,000 points, Delta received a final weighted technical score of 548.85 points, and UCCI received a final weighted technical score of 510.60 points.

With respect to price proposals, which were evaluated by OCHAMPUS's business proposal evaluation team (BPET), Delta offered to pay participating providers at the [deleted] percentile, the current level of payment, and it offered the highest total price of \$1,851,195,527. In contrast, UCCI offered to pay participating providers at the [deleted] percentile, a discounted level of payment, and it offered the lowest total price of \$1,738,762,923. The BPET concluded that both Delta and UCCI offered reasonable and realistic premium rates and administrative costs, and both were considered financially viable companies capable of administering the contract.⁴

⁴Delta maintains that UCCI misled OCHAMPUS to believe that PaBS would be responsible for any losses incurred by UCCI under this contract. Delta argues that this is not the case, and as a result, OCHAMPUS could not have properly assessed UCCI's financial viability. We view Delta's argument as one challenging UCCI's ability, from a financial perspective, to perform the contract. A determination that an offeror is capable of performing a contract is a matter
(continued...)

Based on the evaluation of BAFOs, Delta's highest technical score and UCCI's lowest price were used as the technical and price bases in the "best buy" mathematical formula. All offerors were then assigned technical and price points based on their respective amounts in relation to the base amounts. At that point, each offeror's "best buy" score was calculated by weighting technical at 60 percent and price at 40 percent, and by adding the results together. For Delta and UCCI, the "best buy" analysis was as follows:

	<u>Technical</u>	<u>Price</u>	<u>Best Buy Score</u>	<u>Rank</u>
Delta	1,000	939	975.7	1
UCCI	930	1,000	958.2	2

Although Delta, a higher technically rated, higher-priced offeror, was determined to be the "best buy" offeror, the source selection authority (SSA) concluded that Delta and UCCI were essentially technically equal, and accordingly, determined to award the contract to UCCI based on its lower price.⁵

In his source selection statement, the SSA recognized that Delta, the highest-ranked "best buy" offeror, submitted the highest-rated technical proposal and the highest price. The SSA acknowledged that Delta has been the incumbent contractor since 1987, and has an excellent record of performance. The SSA recognized that UCCI, the second highest-ranked "best buy" offeror, submitted the second highest-rated technical proposal and the lowest price. The SSA acknowledged that UCCI was a subsidiary of PaBS and that UCCI's experience in providing dental insurance was localized rather than national. The SSA compared the final weighted technical scores of Delta and UCCI, noting that out

⁴(...continued)

of responsibility and, in large measure, is based on subjective judgments which generally are not susceptible to reasoned review. See, e.g., Hornet Joint Venture, B-258430.2, Jan. 27, 1995, 95-1 CPD ¶ 55. We will not review OCHAMPUS's affirmative determination that UCCI is a responsible contractor since there has been no showing of possible fraud or bad faith on the part of procurement officials, and the RFP did not contain definitive responsibility criteria which could have been misapplied. Bid Protest Regulations, 4 C.F.R. § 21.3(m) (5) (1995).

⁵The SSA followed the recommendation of both the contracting officer and the source selection advisory council to award the contract to UCCI, the lower-priced offeror, since each believed that Delta and UCCI were essentially comparable from a technical standpoint.

of a possible 1,000 points, Delta received only 38.25 (3.8 percent) more weighted points than UCCI. The SSA also compared total prices, noting that Delta's price was approximately \$112.4 million more than UCCI's price.⁶

The SSA concluded that although Delta received a slightly higher technical score, both Delta and UCCI submitted technically acceptable proposals. The SSA noted that both Delta and UCCI received the identical technical points for 8 of the 12 technical evaluation factors (including the claims processing task which, weighted at [deleted] percent, was the most important task, and the tasks covering ADP, program integrity, insurance policy, fiscal management and controls, transitions, eligibility, and enrollments). The SSA also noted the technical evaluation factors on which Delta and UCCI scored differently. In this regard, Delta received an "exceptional" rating for experience/performance, in recognition of its excellent past performance, and nine "more than satisfactory" ratings for subfactors under the management, support services, and benefits tasks. In contrast, UCCI received two "more than satisfactory" ratings, one for experience/performance, based upon PaBS's long-term experience and success with similar programs, and one for a subfactor under the support services task.

⁶Delta argues that OCHAMPUS, in calculating the price differential for "best buy" purposes, unreasonably used the "inflated" enrollment figures contained in the RFP, rather than using a more "meaningful" estimate of enrollments based on lower anticipated personnel levels. Since the RFP stated that for evaluation purposes, the government-provided "estimated [enrollment] quantities" for each contract period would be used, this argument concerns an alleged impropriety in the RFP which was required to be protested prior to the closing time for receipt of proposals. 4 C.F.R. § 21.2(a)(1). In any event, we note that while an offeror could base its unit prices on enrollments other than those in the RFP, the RFP was clear that for evaluation purposes, which would include the "best buy" analysis, an offeror's unit prices would be multiplied by the enrollment quantities in the RFP to arrive at an offeror's total price. The record also shows that during discussions, OCHAMPUS explained to Delta the importance of using a common enrollment base for the price evaluation, pointing out that "the development of the single and family sponsor rate[s] is within your realm within reasonableness, but at the end, you have to multiply [the rates] times the government's . . . sponsor counts in order to make the comparability with other offerors."

Based on this analysis, the SSA concluded that the technical proposals of Delta and UCCI were "very competitive with no meaningful differences." The SSA continued that:

"OCHAMPUS is obligated to fulfill the minimum requirements of the [g]overnment at a fair and reasonable price. Contract awards should represent the best interests of the [g]overnment. Awarding the proposed contract to [Delta] would result in an award based upon a technical proposal essentially "equal" to [UCCI's] technical proposal while costing an additional \$112.4 million over the life of the contract.⁷ I cannot determine that such action is in the [g]overnment's best interest. [UCCI] has submitted by [far] the superior proposal, contrary to the [b]est [b]uy rankings. [UCCI] offers a proposal effectively equal to that submitted by [Delta] at a significantly lower price."

The SSA then explained that the cost of this program (individual and family premiums) is shared by the government paying 60 percent of any premium and the active duty service member paying 40 percent. The SSA compared the average monthly premium rates of Delta and UCCI, noting that Delta's individual and family premiums were higher than UCCI's individual and family premiums and, as a result, service members would pay higher premiums per month to Delta, as compared to UCCI. The SSA concluded that requiring service members to pay higher monthly premiums was not in their best interest. In addition, the SSA concluded that paying Delta

⁷Delta argues that the price differential is overstated. Delta contends that OCHAMPUS did not use realistic enrollments, resulting in the differential being overstated by \$[deleted] million; that it failed to consider an additional \$[deleted] million in payments that will have to be made to UCCI as a result of equitably adjusting the applicable wage rates; and, it failed to consider increased out-of-pocket payments by beneficiaries of approximately \$55 million due to balance billing. As previously discussed, Delta's argument concerning the enrollment levels used by OCHAMPUS is untimely. Concerning OCHAMPUS's failure to consider equitable wage rate adjustments, we view the amount suggested by Delta as de minimis, having no significant impact on OCHAMPUS's calculation of the price differential. Finally, while there is disagreement among the government's and Delta's actuaries concerning the amount of costs which may be shifted to beneficiaries, we point out that nonpremium-type costs which ultimately may be paid by beneficiaries were not required to be considered in the price evaluation in accordance with the terms of the RFP.

\$112.4 million more for essentially the same services as offered by UCCI could not be justified "considering the intense focus on controlling the cost of federal programs." Accordingly, the SSA awarded the contract to UCCI, the offeror submitting the lowest-priced proposal.

ARGUMENT

Delta contends that OCHAMPUS converted the evaluation and award methodology as announced in the RFP from one requiring a comparative evaluation of proposals, with technical merit being considered more important than price, to one favoring the lowest-priced, technically acceptable proposal. In this regard, Delta maintains that OCHAMPUS unreasonably failed to differentiate between the technical approaches offered by it and UCCI. More specifically, Delta maintains that OCHAMPUS ignored the fact that it committed to exceed many of the RFP's minimum technical requirements, as evidenced by the fact that for many of these requirements, it received the same "satisfactory" rating as UCCI received for simply agreeing to satisfy these minimum requirements. Delta argues that this evaluation methodology is inconsistent with the language in the RFP, as confirmed by information conveyed during discussions, that a higher technical rating would be available to an offeror which presented a proposal which exceeded the minimum technical requirements, thus benefitting the government.

In response, OCHAMPUS maintains that it evaluated proposals consistent with the terms of the RFP. In any event, OCHAMPUS argues that even if its evaluation of proposals was not consistent with the terms of the RFP, Delta was not prejudiced because for this firm, fixed-price procurement, where the focus was on the 60/40 premium split between the government and active duty service members, Delta offered a significantly higher-priced proposal than UCCI.

TECHNICAL EVALUATION

In reviewing protests against allegedly improper evaluations, we examine the record to determine whether the agency's judgment was reasonable and in accordance with the RFP's stated evaluation criteria. DNL Properties, Inc.; et al., B-253614.2; et al., Oct. 12, 1993, 93-2 CPD ¶ 301. In order for our Office to review an agency's selection determination, an agency must have adequate documentation to support its selection decision. Id. The Federal Acquisition Regulation (FAR) requires an agency to document its evaluation of proposals and its selection decision so as to show the relative differences between proposals, their weaknesses and risks, and the bases and reasons for the

selection decision. FAR §§ 15.608 and 15.612(d)(2); S&M Property Management, B-243051, June 28, 1991, 91-1 CPD ¶ 615. Based on our review of the extensive record for these protests, which included a hearing where oral arguments were made by counsel for each party, we conclude that OCHAMPUS's evaluation record was poorly documented.

The RFP included 12 technical evaluation factors, 11 of which corresponded to specific SOW tasks, and covered [deleted] subfactors. The final evaluation factor, experience/performance, was otherwise described in the RFP, but was not an SOW task. Basically at issue is the reasonableness of OCHAMPUS's evaluation of Delta's proposal for the three most heavily weighted evaluation factors-- claims processing, weighted at [deleted] percent; management, weighted at [deleted] percent; and support services, weighted at [deleted] percent.

Specifically, the most heavily weighted technical evaluation factors were comprised of [deleted] subfactors. A significant number of these subfactors were written as objective, quantitative minimum technical requirements which could be exceeded by an offeror. The RFP provided for a comparative evaluation of proposals and stated that an offeror which submitted a proposal which exceeded the RFP's minimum technical requirements and benefitted the government could receive a higher technical rating. Our review of Delta's and UCCI's proposals for the claims processing, management, and support services evaluation factors shows that Delta committed to exceed many of these minimum requirements, while UCCI agreed simply to satisfy these minimum requirements, yet both offerors received the same "satisfactory" ratings for the applicable subfactors.⁸

For example, under the claims processing evaluation factor, Delta committed to process a greater percentage of claims and predeterminations than required within the required time frames. Under the management evaluation factor, Delta committed to implement system changes in less than the required timeframe. Under the support services evaluation factor, Delta committed to complete a greater percentage of

⁸In its reports for these protests, OCHAMPUS in essence concedes that a proposal which exceeds the technical minimums for the three most important SOW tasks will benefit the government. In this regard, OCHAMPUS states that these tasks are highly critical to program operations, and significant contractor involvement, flexibility, and latitude in meeting program requirements is necessary. OCHAMPUS states that the contractor's performance of these tasks will directly impact the beneficiaries and overall program management.

calls than required within the required time frames or to complete the required percentage of calls in less than the required time frames. In addition, Delta committed to provide responses for a greater percentage of routine and priority written inquiries than required within the required time frames or to provide the required responses in less than the required time frames. In contrast, for the same examples, UCCI committed to simply satisfy the minimum requirements. Thus, Delta committed to go beyond what was minimally required by the RFP by agreeing to accomplish in a more expeditious and streamlined manner many of the minimum requirements.

Although OCHAMPUS acknowledges, in response to these protests, Delta's commitments to exceed many of the RFP's minimum technical requirements, it characterizes Delta's offered enhancements as "incremental," stating that for this reason, ratings above "satisfactory" were not warranted. While generally the incremental nature of offered enhancements may reasonably justify ratings of "satisfactory," under the circumstances of these protests, we cannot review the reasonableness of this position because of the lack of substantive, contemporaneous evaluation documentation for such ratings. In this respect, we question the reasonableness of OCHAMPUS's instructions requiring that the evaluators only document those adjectival ratings above and below "satisfactory." In our view, this type of evaluation approach provides an incentive to evaluators to consider only whether minimum technical requirements are satisfied and to simply rate proposals as "satisfactory."

Because of the poorly documented evaluation record, we cannot conclude that OCHAMPUS reasonably evaluated Delta's proposal by not rewarding Delta for its offered enhancements. The record shows that OCHAMPUS rated 94 percent of the subfactors for the competitive range offerors, including Delta and UCCI, as "satisfactory," and that each offeror proposed a different approach to accomplishing the SOW tasks. Based on this record, we are concerned that the evaluators may have masked the technical differences between Delta's and UCCI's proposals by not providing substantive, contemporaneous evaluation narratives to support their assessment that while Delta committed to exceed the RFP's minimum technical requirements, as opposed to UCCI which committed to satisfy these requirements, Delta's offered enhancements were incremental and did not justify ratings above "satisfactory." As a result, it appears that OCHAMPUS may have converted the evaluation and award methodology announced in the RFP from one that promised a comparative evaluation of proposals, with technical merit being considered more important than price,

to one where the lowest-priced, technically acceptable proposal was favored.

PREJUDICE

Nonetheless, in spite of the problems with OCHAMPUS's technical evaluation, we cannot conclude that Delta was prejudiced. Specifically, the record shows that Delta lost this competition not on the basis of unrewarded technical merit, but rather, on the basis of its uncompetitive price.

Source selection officials in negotiated procurements have broad discretion in determining the manner and extent to which they will make use of the technical and cost evaluation results. Grey Advertising, Inc., 55 Comp. Gen. 1111 (1976), 76-1 CPD ¶ 325. In exercising that discretion, they are subject only to the tests of rationality and consistency with the established evaluation factors. Id. Where the proposal of the lowest-priced offeror is technically acceptable and represents a great savings in price, an agency may reasonably award to that offeror based on its determination that the firm's proposal represents the best value to the government. See Ogden Plant Maintenance Co., Inc., B-255156.2, Apr. 7, 1994, 94-1 CPD ¶ 275.

Here, Delta was the highest technically rated offeror in the "best buy" analysis. Even if Delta would have received additional "more than satisfactory" ratings, which would have translated into higher raw and weighted technical scores and increased the technical point differential between Delta and UCCI, which was determined to be a technically acceptable offeror capable of performing the contract, Delta's position as the highest technically rated offeror in the "best buy" analysis would not have changed. Of greater significance in our determination that Delta was not prejudiced is the fact that the price differential between Delta and UCCI is substantial because Delta, unlike UCCI, chose not to discount the financial incentives offered to dentists to become participating providers. As a result, Delta's premiums are higher than UCCI's premiums in order to cover higher administrative and benefit costs.

Since this is a firm, fixed-price contract and the contractor is "at risk" to pay all administrative and benefit costs for dental services provided under the contract, OCHAMPUS focused on the 60/40 premium split between the government and active duty service members. Using the enrollment figures contained in the RFP, OCHAMPUS concluded that the government and service members would save substantial premium amounts by awarding to UCCI since it offered lower premiums than Delta. To the extent Delta argues that if it had known that its offered technical

enhancements would not be rewarded in the technical evaluation, it would have discounted its administrative costs and premiums, the record shows that during discussions, OCHAMPUS advised Delta that discounted networks would be accepted so long as the RFP's minimum access requirements were satisfied. In response, Delta acknowledged that to be competitive, it would have to offer a discounted fee arrangement. We think in the exercise of its business judgment, Delta chose to emphasize its technical merit at a premium price. Since Delta knew that discounted networks would be accepted, yet chose not to discount, we have no basis to recommend that this competition be reopened to afford Delta another opportunity to submit a competitive, i.e., discounted, price proposal.

Therefore, in view of the substantial disparity in prices between Delta's and UCCI's proposals, we think OCHAMPUS could reasonably determine that the "best value" for the government, considering technical merit and price, was UCCI's technically acceptable, lower-priced proposal.

OTHER MATTERS

Delta argues that OCHAMPUS failed to consider the nature of an offeror's network in terms of the quality of services which will be delivered to beneficiaries and additional costs which beneficiaries may have to incur. Delta maintains that UCCI's establishment of a discounted network, under which participating providers will be paid at the [deleted] percentile, as opposed to its proposed network, under which participating providers will be paid at the [deleted] percentile, will result in a smaller, less extensive network. As a result, Delta contends that there will be a degradation in the quality of care, convenience, and choice afforded to beneficiaries, and that cost savings under UCCI's discounted network will be achieved, in large measure, from beneficiaries paying increased out-of-pocket costs.

Under the terms of the RFP, in determining what was most advantageous to the "government," OCHAMPUS was only required to consider whether an offeror could establish a network meeting the 21-day/35-mile minimum access requirements by the start work date, and whether the offeror proposed a financial incentive to dentists to become participating providers. OCHAMPUS' decisions concerning the quality of services delivered to beneficiaries and additional nonpremium-type costs which beneficiaries may be required to pay involve policy choices which we do not review. See QualMed, Inc., B-254397.13; B-257184, 73 Comp. Gen. ____, July 20, 1994, 94-2 CPD ¶ 33.

Finally, Delta and the American Dental Association, which submitted comments on the protests to our Office, have expressed concerns, based on recruitment materials recently distributed by UCCI, that UCCI is implementing a network which is inconsistent with what it offered in its proposal and which is contrary to the terms of the RFP. Whether UCCI will implement a network in accordance with the terms of the RFP, as promised, is a matter of contract administration over which we do not have jurisdiction. 4 C.F.R. § 21.3(m)(1). We expect that OCHAMPUS will ensure, as part of its administration of the contract, that UCCI complies with the requirements of the RFP.

The protests are denied.

Robert P. Murphy
General Counsel