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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

Decision

Matter of: Online Video Service, Inc.

File: B-403332

Date: October 15, 2010

Howard A. Wolf-Rodda, Esq., Brown Rudnick, for the protester.
Sara McAndrew, Esq., and Robin Baum, Esq., Nuclear Regulatory Commission, for the agency.
Mary G. Curcio, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency failed to engage in meaningful discussions with protester regarding its high price is denied where there is no basis for finding competitive prejudice; protester's mere allegation—with no explanation or evidence—that it would have lowered its price to be competitive with awardee's substantially lower price is not sufficient to demonstrate prejudice.

DECISION

Online Video Service, Inc. (OVS), of Washington, D.C., protests the award of a contract to Granicus, Inc., of San Francisco, California, under request for proposals (RFP) No. RFP-10-10-370, issued by the Nuclear Regulatory Commission for web casting services. OVS complains that the agency failed to provide it with meaningful discussions.

We deny the protest.

The RFP provided for the award of a contract on a “best value” basis based on an evaluation of past performance, corporate experience, live web cast capability demonstration, and price. Following the submission and evaluation of proposals, discussions, and the submission and evaluation of final proposal revisions, four proposals, including Granicus's and OVS's, were included in the competitive range. Granicus's and OVS's proposals received 97 and 95 (out of a possible 100) technical points, respectively. Granicus's proposal was the lowest priced at \$463,858.94, and OVS's was the highest priced \$892,742. The source selection official (SSO) determined that the offers were technically equal and thus made award to Granicus based on its low price.

OVS asserts that the agency failed to engage in meaningful discussions because it did not inform OVS that its price was unreasonable.

We will not sustain a protest unless the protester demonstrates competitive prejudice—that, but for the agency’s actions, it would have a substantial chance of receiving the award. Velos, Inc.; OmniComm Sys., Inc.; PercipEnz Technologies, Inc., B-400500 et al., Nov. 28, 2008, 2010 CPD ¶ 3 at 12. The agency maintains that OVS has not demonstrated that it was prejudiced by its failure to reference OVS’s high price during discussions. In response, OVS simply states that “it would have dropped its price dramatically—even to the amount proposed by Granicus so as to materially enhance OVS’s potential for winning the award.” Comments at 3. OVS provides no specific information or explanation as to how it would have lowered its price, which was almost twice as high as Granicus’s price. Given the substantial difference in the offeror’s prices, OVS’s general assertion is not sufficient to establish prejudice, that is, to show that OVS could or would have reduced its price sufficiently that its proposal had a substantial chance of being selected for award as the best value. Id.

The protest is denied.

Lynn H. Gibson
Acting General Counsel