Comptroller General
of the United States

Washington, D.C. 20548

Decision

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Matter of: ABB Power Generation, Inc.

File: B-272681; B-272681.2

Date: October 25, 1996

B. Michael Schestopol, Esq., and James F. Nagle, Esq., Oles, Morrison & Rinker, for the protester.
Gregory W. Vanagel, Esq., and William A. Hough, Esq., Army Corps of Engineers, for the agency.
Tania L. Calhoun, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that contracting agency improperly failed to disclose evaluation guidelines for rating certain proposal features as more desirable or less desirable is denied since agencies are not required to inform offerors of their specific rating methodology.

2. Where record shows that even if protester's proposal had received the maximum possible score in an evaluation area associated with an allegedly inadequately discussed issue, it still would not have been in line for award; there is no basis to conclude that any inadequacy in discussions prejudiced the protester by depriving it of an opportunity for award.

DECISION

ABB Power Generation, Inc. protests the award of a contract to National Electric Coil (NEC) under request for proposals (RFP) No. DACW21-95-R-0055, issued by the Army Corps of Engineers, Savannah District, to rewind and refurbish four hydroelectric generators at the Hartwell Power Plant in Hartwell, Georgia. ABB principally challenges the Army's evaluation of its proposal.

We deny the protests.

BACKGROUND

Each generator consists of a rotating cylinder inside a stationary cylinder, or stator. Current is produced by induction through coil windings which are part of the stator. The successful offeror would receive a fixed-price contract to design, manufacture, supply, and install new sets of stator coils and to otherwise refurbish the generators in accordance with specified performance requirements.

Award would be made to the firm whose proposal offered the best overall value to the government. The RFP stated that the Army was more concerned with obtaining superior technical features than with making an award at the lowest overall price, but would not make an award at a significantly higher overall price to achieve slightly superior features. Proposals would be evaluated based upon four factors, in descending order of importance: technical; previous experience; management; and price. One of the three technical subfactors, at issue here, was winding installation.

Offerors were required to submit a completed contractor compliance checklist along with their technical proposals. This checklist repeated the specifications and required offerors to indicate whether they proposed to conform with each specification, including those which could be met in more than one way. Offerors' technical proposals were to have sufficient information and descriptive data to corroborate the checklist and other required information.

The Army evaluated each of the six proposals it received and included all of them in the competitive range. Written and oral discussions were conducted, and best and final offers (BAFO) were submitted. The final evaluation results for the four highest-rated offers were as follows:[1]

	Firm A	**NEC**	**Firm B**	**ABB**
Technical	30.1	34.4	28.5	17.2
Previous Experience	27.0	16.0	17.0	28.0
Management	9.5	9.0	9.0	9.0
Total	**66.6**	**59.4**	**54.5**	**54.2**
Price	**$9,267,023**	**$5,680,180**	**$7,619,126**	[DELETED]

[1]No proposals are at issue here save those of ABB and NEC.

The source selection board report identified the advantages and disadvantages of each proposal, and the source selection decision summary contained a comparative analysis of the board's findings. In concluding that NEC offered the best value to the government, the contract specialist stated that although Firm A had a higher score overall, NEC outscored the firm in the technical area, and the risk associated with NEC's previous experience was not considered significant enough to outweigh the cost difference between the two. ABB's lower-rated proposal was not addressed in the contract specialist's cost/technical tradeoff analysis. However, she noted that the firm's side packing system was a "conformance fit" system, as opposed to the superior "interference fit" system offered by NEC, and that ABB's proposed check wedging system did not afford the most optimum method for checking spring deflection, while NEC's description of its check wedge system indicated a superior approach. The award was made to NEC on July 3, 1996, and these protests followed.

ABB's protest centers around the Army's evaluation of its technical proposal under the winding installation subfactor. ABB contends that the agency improperly failed to advise offerors of its evaluation guidelines and conducted inadequate or misleading discussions with the firm.

DISCUSSION

In accordance with the evaluation plan, the evaluators divided the winding installation subfactor into four areas, one of which was side packing. Side packing is the medium that envelops the stator coils to protect them from damage.

Paragraph 2.7.2 of the RFP's specifications informed offerors that:

> "One of the following side packing systems shall be used:
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> (1) Multiple layers of conducting felt shall be used to completely fill the space between the coils and the sides of the slots.
> (2) A semi-conducting silicone rubber compound shall be applied to the sides of the coils and cured before coil insertion. The silicone rubber shall form an interference fit with the sides of the slot.
> (3) A semi-conductive coil wrapper used in conjunction with conducting putty shall be continuously applied throughout the length of the slot. The coil shall be inserted into the slot before the putty has cured.
> (4) Other approved systems. No systems will be approved which required the side filler to be driven in the slot after the coil has been inserted."

Item number 31 of the contractor compliance checklist essentially restated these alternatives. ABB's compliance checklist indicated that the firm was offering a system which utilizes a semi-conductive wrapper in conjunction with conducting putty--alternative (3).

The evaluation plan contained guidelines for rating each area of the proposals, including offerors' side packing systems. Offerors proposing the silicone rubber "interference fit" system--alternative (2)--would receive the maximum 20 points; offerors proposing the semi-conductive coil wrapper system--alternative (3)--would receive 10 points; and offerors proposing the felt system--alternative (1)--would receive 0 points.[2] These guidelines were not disclosed in the solicitation. ABB's proposal received 10 points, commensurate with its offer to provide alternative (3).[3]

ABB argues that the Army improperly failed to disclose its evaluation guidelines with respect to side packing systems.[4] The firm equates these guidelines to undisclosed evaluation factors, and asserts that the competition was not meaningful because offerors were competing "in the blind."

We do not agree with ABB. These guidelines provided the evaluators with guidance as to how certain features should be evaluated and, as such, they constituted an evaluation methodology, not undisclosed evaluation factors. Agencies are not required to inform offerors of their specific rating methodology. Lexis-Nexis, B-260023, May 22, 1995, 95-2 CPD ¶ 14. In appropriate circumstances, agencies may establish evaluation standards to provide evaluators with guidelines as to the quality of proposals in certain evaluation areas, and the fact that certain features have been identified by the agency as more desirable or less desirable does not require that they be disclosed to offerors. Id. The guidelines at issue here merely reflected what the agency, based on prior experience, reasonably viewed to be a superior technical approach to satisfying the side packing system requirement; the RFP left it to the offerors to devise what they believed to be the best approach to meeting the

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[2]The fourth alternative was scored according to how closely it matched the other three specifically identified methods. While it is not at issue here, it is unclear how the agency could properly give 0 points to a proposal offering alternative (1) when that very alternative was listed in the solicitation as an acceptable method of side packing.

[3]NEC's proposal received 20 points for offering an interference-fit side packing system. ABB does not challenge this rating.

[4]ABB also raises this argument with respect to the second of the three technical evaluation subfactors, winding losses. Our conclusion concerning the evaluation guidelines is applicable to both of these arguments.

agency's requirements, including selection of one of the side packing alternatives, and there was no guarantee that the agency would consider each approach to be equally effective. Pitney Bowes, 68 Comp. Gen. 249 (1989), 89-1 CPD ¶ 157, aff'd, B-233100.2, June 22, 1989, 89-1 CPD ¶ 587; Canadian Commercial Corp./Canadian Marconi Co., B-250699.4, Mar. 5, 1993, 93-1 CPD ¶ 251.

ABB next argues that the agency conducted inadequate discussions with the firm because its proposal and response to a discussion question made it clear that the firm believed it was offering an interference-fit side packing system--alternative (2) in the evaluation guidelines--for which 20 (not 10) points were to be awarded.[5] ABB asserts that the agency was obligated to pursue the matter with the firm during discussions before concluding that it did not offer an interference-fit system. We need not reach this issue, since the record shows that even if ABB were correct, the firm would not be prejudiced by any impropriety on the agency's part.

In response to the protests, the Army reevaluated proposals, giving ABB full credit for having proposed an interference-fit side packing system. ABB's revised technical score is 27.2, as compared with NEC's technical score of 34.4, and ABB's revised overall score is 64.2, as compared with NEC's overall score of 59.4. Notwithstanding these revisions, the Army's conclusion that NEC represents the best value to the government remains unchanged.

The reevaluation shows that NEC's score under the most important evaluation factor, technical, is higher than ABB's, principally because the firm's description of its check wedging system indicated a superior approach.[6] The Army acknowledges that one of NEC's references reported an incident wherein its check wedge

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[5]As noted above, ABB's compliance checklist indicated that the firm was offering an alternative (3) system. While the description of the system in the text of its proposal (a system "which consists of wrapping the slot portions of the coil with a folded semi-conducting protection paper filled with a small amount of an elastic compound in the fold") is consistent with the specification definition of an alternative (2) system, the proposal also referred to the system as an "interference-type round-packing system." Also, in response to a discussion question concerning the type of elastic compound ABB proposed to use, ABB, referring to an enclosed photograph, advised the agency to "note . . . the interference fit."

[6]The check wedge system allows for measurements to be taken that would indicate how well the packing around the coils is holding up and may indicate the need for maintenance repairs in order to prevent a failure. A greater number of check wedges allows for more measurement along the length of the spring and provides for a more accurate estimation of the compression changes in the spring. NEC provided for more check wedges than did ABB.

materials installed in 1984 were dropping out, indicating significant risk of winding failure and materials damage which could lead to a unit shutdown. This risk led to NEC's significantly lower rating under the previous experience factor. However, in performing her cost/technical tradeoff analysis, the contracting officer stated that NEC's proposal of a superior check wedge system may have reduced the risk of wedges falling out. Given NEC's technical superiority, the contracting officer stated that the firm's higher risk under the previous experience factor was not considered significant compared to the total cost premium represented by ABB's proposal. Consequently, NEC's proposal was a better value to the government.

ABB challenges this reevaluation by asserting that the assessment of NEC's check wedging system as superior is inconsistent with its previous experience rating and the incident noted above.[7] The firm suggests that NEC's proposed check wedge system must be defective if check wedges fell out. However, there is nothing in the record to suggest that the check wedge system proposed by NEC in 1996 has any relationship to the system used by NEC in 1984 when it installed the coils in the incident at issue, and the protester's disagreement with the agency's evaluation does not itself render the evaluation unreasonable. Litton Sys., Inc., B-237596.3, Aug. 8, 1990, 90-2 CPD ¶ 115.

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[7]ABB also complains that the Army's evaluation improperly failed to consider NEC's negative performance on a project taken over by ABB in 1991. This allegation, raised for the first time in its comments, is untimely. ABB knew when it filed its initial protest that previous experience was an evaluation factor, and challenged the Army's evaluation of NEC under this factor, arguing that NEC had no performance history. Yet the protester also knew when it filed its initial protest that it had taken over a project on which NEC had performed badly. If ABB believed that NEC's performance on this project should have had a negative impact on its previous experience rating, as it now suggests, the firm should have raised the issue in its initial protest. A protester may not introduce a new issue in its comments that it could have raised in its initial submission to our Office, as our Bid Protest Regulations do not contemplate the unwarranted piecemeal presentation of protest issues. See Remtech, Inc., 70 Comp. Gen. 165 (1991), 91-1 CPD ¶ 35.

Thus, the results of the agency's reevaluation indicate that NEC's proposal was technically superior to ABB's, largely on the basis of its check wedging system, and that the risk which led to NEC's lower previous performance rating was not significant when compared to the large cost premium represented by ABB's proposal. Under the circumstances, we are unable to conclude that any inadequacy in discussions prejudiced the protester by depriving the firm of an opportunity for award. Environmental Sys. and Servs., Inc., B-244213, Oct. 2, 1991, 91-2 CPD ¶ 283. Prejudice is an essential element of a viable protest, and we will not sustain a protest where, as here, no prejudice is evident from the record. Lithos Restoration Ltd., 71 Comp. Gen. 367 (1992), 92-1 CPD ¶ 379.

The protest is denied.

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