



**Comptroller General  
of the United States**

Washington, D.C. 20548

# Decision

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**Matter of:** Polar Power, Inc.

**File:** B-274846.2; B-274846.3

**Date:** January 14, 1997

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## DIGEST

Protest that contracting agency unreasonably evaluated protester's technical proposal is denied where the record shows that the evaluation was reasonable and in accordance with the solicitation's stated evaluation criteria; protester's proposal was downgraded principally due to its failure to substantiate its claims, as required, and its disagreement with the agency's judgment as to the impact that this lack of substantiation had on various aspects of its proposal does not render that judgment unreasonable.

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## DECISION

Polar Power, Inc. protests the award of contracts to Goodman Ball, Inc., Dynamic Corporation of America, Fermont Division, and T&J Manufacturing, Inc. under request for proposals (RFP) No. DAAK01-95-R-0075, issued by the Department of the Army for the development of a 3-kilowatt (kw) tactical quiet generator. Polar Power principally argues that the Army unreasonably evaluated its proposal.

We deny the protests.

## BACKGROUND

The solicitation contemplated the award of contracts to two or more offerors for an engineering and manufacturing effort leading to the procurement of 3-kw, 60 Herz (Hz) tactical quiet generator sets, with an option to develop and produce 3-kw, 400 Hz generator sets. Cost reimbursement contracts would be awarded for phase I (engineering and manufacturing development), with an option for phase IIA

(continued engineering and manufacturing development). Fixed-price production contracts for phases IIB and III would subsequently be awarded to one of the successful offerors under the solicitation.

Award would be made to the offerors whose proposals represented the best value to the government, considering four areas: technical, integrated logistics support (ILS), past performance, and cost. The technical area was slightly more important than the ILS area, which was slightly more important than the past performance area, and the past performance and cost areas were equally important. Proposals would be adjectively rated under the technical and ILS areas and their factors and subfactors and the past performance area.<sup>1</sup> Cost would be evaluated for realism.

The technical area contained three factors: technical design and performance; specific design characteristics; and capabilities, plans, personnel, and facilities. The second factor was significantly more important than the first, and the third factor was significantly less important than either of the other two. The first two technical factors are the only ones at issue here.

The specific design characteristics factor consisted of six subfactors, listed in descending order of importance: weight; high temperature and altitude; noise suppression; fuel tank capacity; dimensions; and reliability predictions. The technical design and performance factor consisted of five equally weighted factors: overall design and approach; environmental characteristics; maintainability and life; engine analysis; and generator/electrical analysis.

Army evaluation teams reviewed each of the five proposals received and forwarded numerous errors, omissions, and clarifications (EOC) to the source selection evaluation board (SSEB). The source selection authority (SSA) eliminated the proposals of both Polar and another firm from the competitive range but subsequently reinstated them following agency-level protests. The EOCs were forwarded to the offerors, discussions were conducted, and best and final offers

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<sup>1</sup>Under the technical and ILS factors and subfactors, proposals would be rated as highly satisfactory (HS), satisfactory (S), marginal (M), or unacceptable (U). Under the past performance area, proposals would be rated as presenting low (L), moderate (M), high (H), or neutral (N) risk.

(BAFO) were requested and received. The final relevant evaluation results were as follows:

	<b>GBI</b>	<b>T&amp;J</b>	<b>Fermont</b>	<b>Polar<sup>2</sup></b>
<b>Technical</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>M</b>
Design & Performance	S	S	S	M
Specific Design	HS	HS	HS	S
Capabilities	S	S	S	M
<b>ILS</b>	<b>S</b>	<b>S</b>	<b>HS</b>	<b>S</b>
<b>Past Performance</b>	<b>L-M</b>	<b>L-M</b>	<b>M</b>	<b>N</b>
<b>Cost Phase I</b>	<b>\$576,024</b>	<b>\$951,915</b>	<b>\$1,030,196</b>	<b>\$829,452</b>

The SSEB recommended that contracts be awarded to Goodman Ball, T&J, and Fermont as representing the best overall value to the government. In accepting this recommendation, the SSA noted that Polar's proposal could provide some technical advantages, but that the firm had insufficient design drawings, analyses, component evaluations, and supporting data that would lead to a high degree of confidence that it could deliver a well-designed, quality product ready for production in a timely manner.<sup>3</sup> The SSA further stated that the risks associated with pursuing this inadequately supported design far outweighed the relative difference in cost.

Award was made on September 18. Polar was given copies of the debriefing charts on September 23 and received its debriefing on September 30. The firm's protest was filed on October 7, and its November 25 comments on the agency report were

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<sup>2</sup>Under the specific design characteristics factor, Polar's proposals was rated marginal under the noise suppression and reliability predictions subfactors; satisfactory under the weight, high temperature and altitude, and dimensions subfactors; and highly satisfactory under the fuel tank capacity subfactor. The proposal was rated marginal under all of the design and performance subfactors except that concerning engine analysis.

<sup>3</sup>The RFP required delivery of a mockup generator set 90 days after award and delivery of prototype sets 210 days after award.

opened as a supplemental protest. Polar primarily argues that the Army's evaluation of its proposal was unreasonable and inconsistent with the evaluation criteria.

## ANALYSIS

In reviewing a protest against the propriety of an evaluation, it is not our function to independently evaluate proposals and substitute our judgment for that of the agency. Polar Power, Inc., B-257373, Sept. 2, 1994, 94-2 CPD ¶ 92. Rather, we will review an evaluation only to ensure that it was reasonable and consistent with the solicitation's evaluation criteria. Id. The fact that a protester disagrees with the agency's judgment does not itself establish that that judgment is unreasonable. ESCO, Inc., 66 Comp. Gen. 404 (1987), 87-1 CPD ¶ 450. Here, the record reasonably supports the Army's conclusion, reflected in its evaluation, that Polar's proposal's central problem was its inadequate substantiation of its claims, as illustrated by the following examples.

Under the specific design characteristics factor, the most important subfactor was weight. Generator sets were not to weigh more than 324 pounds (without the battery), and lighter units would generally be rated higher than heavier units. Offerors were required to provide a detailed weight breakdown of each generator set component with information and data to verify and support each component weight.

Polar's initial proposal estimated the weight of its generator at 230 pounds and supported this estimate with a weight analysis broken down by major subassembly. In an EOC, the Army asked Polar to provide a more detailed weight breakdown so that it could be assured that all components were considered. The firm was also asked to state the basis for its estimates, such as manufacturers' data. Polar's response proclaimed its confidence in the reasonableness of its estimates, and stated that it would provide more accurate estimates as the design was finalized. In its BAFO request, the Army told Polar that its weight appeared unrealistic in comparison with similar units and reminded the firm that it had not provided a weight list of its components. Polar's BAFO characterized the Army's request as unrealistic but attached a component weight analysis, stating that the numbers were "from memory."

To compare Polar's unit with those of the other offerors, the Army added the weight of fuel to arrive at a total of 263 pounds. The Army agrees that Polar's unit would probably have a low weight, but states that it was rated only satisfactory due to the proposal's incomplete analysis and lack of a thorough estimate. According to the Army, the weight analysis did not appear to include a number of items; it listed as "included" the weight for several listed components but did not identify where

their weights were included; and some component weights appeared to be unrealistically low.

Polar contends that a light-weight 2.2 kw generator it provided to the Army's Missile Command (MICOM) supports its low-weight claims. However, the Army asserts that the two units are not comparable, and that the MICOM unit did not include all of the components that are required here. Polar's assertion that the additional weight of the required components would still result in a lighter generator does not mitigate the fact that the proposal's claims were unsupported. In addition, our review of Polar's weight estimate shows that, at a minimum, it is not clear that all of the components are included, leaving the weight estimate uncertain. Polar does not satisfactorily address the Army's concern that some component weights are unrealistically low and, under the circumstances, we have no basis to question the Army's evaluation.

The next most important subfactor was high temperature and altitude, under which required and desired performance characteristics were listed. Polar contends that this aspect of its proposal should have been rated highly satisfactory instead of satisfactory because it showed that it could produce a liquid-cooled generator for the Marine Corps which was capable of operating in a very high-temperature environment, and because its proposed unit substantially exceeded the desired characteristics with respect to altitude.

The Army states that Polar's alleged capabilities with respect to the Marine Corps generators are mentioned in its proposal but are in no way substantiated, and thus do not support a higher rating. Given the RFP's express requirements for the substantiation of claimed capabilities, we have no basis to question the Army's views here. We also do not agree with Polar that the Army was required to contact the Marine Corps to obtain the required substantiation. Offerors bear the burden for failing to submit an adequately written proposal, donald clark Assocs., B-253387, Sept. 15, 1993, 93-2 CPD ¶ 168, and contracting agencies are not obligated to go in search of needed information which the offeror has omitted or failed adequately to present. Telos Field Eng'g, B-251384, Mar. 26, 1993, 93-1 CPD ¶ 271. Polar's argument that its proposed unit substantially exceeded the desired characteristics with respect to altitude is not supported by the record. The firm's proposal indicates that its unit met, but did not exceed, one of the two desired characteristics under certain conditions.<sup>4</sup> Under the circumstances, we cannot

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<sup>4</sup>Polar also argues that the Army unreasonably evaluated its proposal as having a power output capability of 2.7 kw at 4,000 feet, a figure which is not contained in its proposal. While it appears that Polar is correct, there is no evidence that this was a definitive factor in the evaluation—it was not listed as a weakness and appears nowhere in the source selection documents.

conclude that the Army's evaluation of Polar's proposal under this subfactor was unreasonable.

The next most important subfactor was noise suppression. Noise levels were not to exceed 85 decibels (dBA) at the operator's position or 75 dBA at 7 meters, and the desired maximum noise level at 7 meters was 70 dBA. Offerors were required to describe the noise suppression characteristics of their proposed designs and to include the noise level characteristics, noise level design, suppression materials and construction, and contribution of generator set components to noise levels.

In its initial proposal, Polar claimed that its generator had a 40-percent probability of meeting a maximum noise level of 58 dBA at 7 meters and 72 dBA at 1 meter, and a 100-percent probability of meeting a maximum noise level of 65 dBA at 7 meters and 75 dBA at 1 meter. In response to the Army's request to support these claims, Polar stated that its claims were based on its present product line and asserted that similar generators of other manufacturers met a lower noise level. In its BAFO request, the Army told Polar that its noise level predictions were weakly substantiated, and advised that:

"Extrapolation from other generators is not adequate. To reduce noise by design, the designer must identify the sources of noises and determine the type of noises . . . . Because the offeror has not shown the sources, the approaches used to suppress the noise may not be effective. [Polar] provides virtually no information on suppression material except to reference an appendix; but this appendix is missing."

In its BAFO, Polar stated that it presently manufactured 65 dBA generator sets, which supported its claims, and relied for further support on the generator that it had demonstrated to MICOM. Polar's proposal was rated marginal because its noise level predictions were weakly substantiated. Polar does not address this concern, but again relies upon its MICOM generator to support its claims. Once again, there is no basis for us to consider that these units are comparable, particularly where the Army explains that the MICOM unit used an air-cooled engine with noise traps, whereas this unit is water-cooled with no noise traps. As the Army states, while Polar might have made extrapolations between the two units, it did not do so in its proposal.<sup>5</sup>

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<sup>5</sup>To the extent Polar is arguing that the Army improperly failed to consider its MICOM experience under the past performance factor, Polar's past performance proposal made no mention of this experience.

Turning to the technical design and performance factor, we dismiss a number of Polar's allegations as untimely.

Polar's initial protest, filed after its debriefing, consisted of such general allegations as, "Regarding risk and capabilities, it was irrational for Polar Power to have previously received high marks in the same subject areas from [the Army] on a similar generator procurement, and have fared so poorly on this procurement." Given the general nature of the allegations, the agency report did little more than deny them and provide supporting documentation. In its November 25 comments, Polar, for the first time, challenged the Army's view that its proposal represented high risk with respect to its use of a permanent magnet (PM) alternator as a starter motor; its use of composite housing; its liquid-cooled alternator design; its generator cooling system; and its inverter, inverter switch, PMG in-house design, and PMG switch.

Under our Bid Protest Regulations, protests based on other than solicitation improprieties must be filed within 10 days of when the protester knew or should have known their bases. Bid Protest Regulations, section 21.2(a)(2), 61 Fed. Reg. 39040, 39043 (1996) (to be codified at 4 C.F.R. § 21.2(a)(2)). These regulations do not contemplate the piecemeal presentation or development of protest issues; where a protester raises a broad ground of protest in its initial submission but fails to provide details within its knowledge until later, so that a further response from the agency is needed for an objective review of the matter, these later issues will not be considered. See Management Sys. Applications, Inc., B-259628, B-259628.2, Apr. 13, 1995, 95-1 CPD ¶ 216.

One of the debriefing charts provided to Polar on September 25 listed the firm's "weak points":

"Low probability of success based on need to develop: cooling of set, inverter, inverter switch, [permanent magnet generator (PMG) in-house design, PMG switch, PMG reverse start, composite housing, liquid cooled alternators, and set layout."

In our view, this debriefing chart shows that the specific issues above, first raised in Polar's November 25 comments, are based on information in Polar's possession sufficient to put it on notice of these issues prior to the filing of its initial protest. As a result, we consider these issues to have been filed in a piecemeal fashion and will not review their merits, as they do not independently satisfy our timeliness requirements. Litton Sys., Inc., Data Sys. Div., B-262099, Oct. 11, 1995, 95-2 CPD ¶ 215.

One area for evaluation under the maintainability and life subfactor was "accessibility characteristics." After the initial evaluation, Polar was asked to

support its very general accessibility approach and was advised of Army concerns that all maintenance access would be through the top door of the unit. Drawings provided in its BAFO showed that Polar had redesigned the housing to allow it to come apart and had added an access door for the battery. Polar also explained that it had redesigned access to the lubrication oil for ease of checking its level.

While the information contained in the BAFO alleviated some of the Army's concerns,<sup>6</sup> Polar's proposal was rated marginal here because the Army believed there was insufficient information to support the firm's accessibility approach. The Army was concerned about the accessibility for checking and adding coolant and for various scheduled maintenance items; it was concerned that items such as the oil filter, fuel filter, and injectors were not identifiable for access on Polar's drawing; and it was concerned that the firm had not adequately defined how the housing would be removed for unscheduled maintenance. Our review of the record shows that the Army's concerns were reasonable. Many parts on Polar's drawings are not labeled, leading to uncertainty as to precisely what they are. While the drawings name the oil filter, fuel filter, and injectors, there is no indication of their location except an arrow pointing to the left. Finally, Polar's contention that its drawings adequately show that the housing is completely removable misses the point; the Army could not discern how the housing was removed.

As a final matter, Polar cites a sentence in the SSEB report which states that the technical factors and subfactors were equally weighted to argue that the Army improperly failed to evaluate its proposal in accordance with the stated evaluation scheme. In response, the Army asserts that the sentence was a misstatement, and that proposals were in fact evaluated in accordance with the evaluation scheme which, as relevant here, stated that the specific design characteristics subfactors would have various weights.

Polar maintains that there is no evidence that the Army properly evaluated the proposals, but the proper question is whether, given the Army's express denial of the allegation, there is any evidence that it did not properly evaluate the proposals. There is none. Moreover, it is the ultimate evaluation by the agency which is governed by the tests of rationality and consistency with the RFP evaluation criteria, not the assessment by lower-level evaluation teams or boards. See Contel Fed. Sys., 71 Comp. Gen. 11 (1991), 91-2 CPD ¶ 325. The SSA's source selection statement properly sets forth the evaluation scheme, and the language of the

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<sup>6</sup>The Army's submission is somewhat confusing, but it appears that its concerns regarding accessibility for checking the oil level and for checking the battery were alleviated. As for Polar's complaint that the source selection document still shows a concern about the ease of removing the battery, we have no basis to equate the ease of removing the battery with the ease of checking the battery.

statement indicates that the SSA was well aware that certain subfactors, such as weight, were more important than others. Considering the record as a whole, we have no reason to conclude that the agency's evaluation was improperly conducted.<sup>7</sup>

The protests are denied.

Comptroller General  
of the United States

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<sup>7</sup>Polar's contention that the Army never intended to consider its proposal for award is belied by the record, which shows that the Army went to great efforts to help the firm provide a proposal which would meet its needs, but that Polar chose to submit a poorly substantiated proposal. Polar's related contention that the Army did not consider its BAFO because it had only 24 hours in which to do so is similarly unsupported by the record.