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**Comptroller General
of the United States**

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

Decision

Matter of: Koontz Electric Company, Inc.

File: B-407946

Date: April 5, 2013

Dean Hoover for the protester.

M. Susan Fink, Esq., Department of the Army, Corps of Engineers, for the agency. Paul N. Wengert, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency misevaluated protester's experience, and unreasonably awarded contract to higher-rated, higher-priced offeror, is denied where protester's proposal did not show type of experience identified in solicitation, and where evaluation and source selection were reasonable and consistent with solicitation.

DECISION

Koontz Electric Company, Inc., of Morrilton, Arkansas, protests the award of a contract to ABB, Inc., of Montreal, Quebec, Canada, under request for proposals (RFP) No. W912DW-12-R-0030, issued by the Department of the Army, Corps of Engineers, for replacement of excitation systems at Chief Joseph Dam in Bridgeport, Washington. Koontz argues that its proposal was misevaluated, and that the agency made an unreasonable source selection decision.

We deny the protest.

BACKGROUND

The Corps of Engineers issued the RFP on August 6, 2012, seeking proposals to design, manufacture, test, deliver, install, and commission eleven excitation systems for the hydropower generation systems at Chief Joseph Dam.¹ Contracting Officer's

¹ The contracting officer explains that Chief Joseph Dam is the second largest hydropower producer in the United States. Id. The RFP also provided for two optional items, which are not at issue here.

Statement, at 1. In a hydropower generator, the excitation system (or “exciter”) supplies field current to (and thus creates and regulates a magnetic field in) the inner coil of the generator. Agency Report (AR), Tab 7, Declaration of Dam Operations Project Manager, at 1. Among other things, the exciter must respond to changes in system voltage or demand on the generator by increasing or decreasing the field current so that the output voltage of the generator is correct. Id. The design of Chief Joseph Dam links generators in pairs, and therefore uses a technique called “reactive differential compensation” (RDC) to regulate voltage in each of a pair of generators operating in parallel. Id.

After passing through transformers, the transmission system combines power from Chief Joseph Dam with that of Grand Coulee Dam. Id. at 2. However, Grand Coulee Dam uses a different generator configuration, and a different compensation method, known as “line drop compensation” (LDC). Id. In order to link its power with that of Grand Coulee Dam, the exciters at Chief Joseph Dam must provide both RDC and LDC. Id.; RFP § 48 19 26 at 23 (¶¶ 2.4.10 & 2.4.11).

The RFP specified that a contract would be awarded to the firm whose proposal provided the best value. The RFP identified four non-price evaluation factors, listed in descending order of significance: technical, prime contractor past performance, schedule, and subcontracting plan. As relevant to the protest issues here, the technical factor consisted of three subfactors: corporate experience and capabilities, electrical design experience, and key personnel qualifications. The corporate experience subfactor was more important than the other two subfactors. The RFP stated that price was significantly less important than the combined non-price factors for purposes of the best value determination. RFP § 00 24 00-2 to -3.²

The RFP also described each factor, and stated that the “minimum submittal requirements stated must be met.” Id. at -3. In evaluating proposals under the technical subfactors, the agency was to assign ratings of outstanding, good, acceptable, marginal, or unacceptable. Id. at -2. Under the corporate experience subfactor, the RFP listed elements that each offeror “must provide.” Among those was the following:

The Offeror shall provide documentation showing successful implementation of reactive differential compensation simultaneously with line drop compensation for the proposed equipment or for other exciter manufacturer designed excitation system. Point of contacts (POCs), to include email and telephone numbers, project names and locations shall be provided to confirm

² In this decision, RFP citations are to the conformed version of the RFP submitted as Tab 4 of the Agency Report.

the successful implementation of simultaneous reactive differential compensation and line drop compensation.

Id. at -4.

Under the electrical design experience subfactor, the RFP required each offeror to demonstrate experience in electrical design similar to the project requirements that was similar in scope, magnitude and complexity to the RFP. Id. at -6. The RFP also instructed offerors that “[d]esign service experience should include design calculations and drawings from a registered Professional Engineer.” Id. at -5.

The Corps received proposals from four offerors, including Koontz and ABB. Contracting Officer’s Statement at 3. A technical evaluation panel evaluated all proposals and assigned ratings under each technical subfactor (but not an overall technical rating), and under the prime contractor past performance and schedule factors.

Under the corporate experience subfactor, the evaluators concluded that Koontz’s proposal did not identify any experience with RDC simultaneously with LDC, notwithstanding the RFP requirement quoted above. Since Koontz had not demonstrated the type of experience that the RFP expressly required, the evaluators rated Koontz’s proposal as unacceptable. AR, Tab 14, Consensus Technical Evaluation of Koontz, at 1 (AR 001898).

Under the design experience factor, the evaluators observed that, although Koontz’s experience showed implementation of high-amperage systems (similar to Chief Joseph Dam), the proposal did not adequately describe the scope and complexity of those projects to allow comparison to the agency’s requirement. They also noted that Koontz’s design calculations and drawings, which provided a model implementation of RDC and LDC, did not show that they had been prepared by a professional engineer. Based on these shortcomings, the evaluators concluded that, while Koontz appeared to be capable of successfully implementing both RDC and LDC in its exciter design, there remained some risk of failure. They found that Koontz’s shortcomings merited a rating of marginal under the design experience subfactor. Id. at 2 (AR 001899).

After completing their evaluation of all proposals under the non-price factors, the evaluators reported the following ratings:

Offeror	Technical: Corporate Experience	Technical: Electrical Design Experience	Technical: Key Personnel Qualifications	Past Performance	Schedule
ABB	Good	Outstanding	Outstanding	Very Relevant/ Significant Confidence	Good
Offeror A	Unacceptable	Acceptable	Outstanding	Relevant/ Satisfactory	Unacceptable
Koontz	Unacceptable	Marginal	Good	Very Relevant/ Significant Confidence	Outstanding
Offeror B	Unacceptable	Marginal	Good	Relevant/ Satisfactory	Marginal

AR, Tab 14, Consensus Evaluation Summary of Findings, at 1 (AR 001907³); Contracting Officer's Statement, at 4.

The contracting officer reviewed and agreed with the evaluation. She then independently evaluated each offeror under the subcontracting plan factor, assigned an overall rating, and evaluated prices (including both options), as follows.

Offeror	Subcontracting Plan	Overall	Evaluated Price
ABB	Satisfactory	Good	\$7.7 million
Offeror A	Satisfactory	Marginal	\$7.5 million
Koontz	Very Good	Marginal	\$6.8 million
Offeror B	Very Good	Marginal	\$7.3 million

Id.; AR, Tab 18, Source Selection Memorandum, at 22-23.

The contracting officer then summarized the evaluation of each proposal. Id. at 26. With respect to Koontz, the contracting officer noted that ABB's evaluated price was \$860,000 (or 12.6 percent) higher than Koontz's. She viewed Koontz's proposal as inferior overall, however, particularly because Koontz had "no experience with RDC/LDC implementation." In contrast, the contracting officer noted that ABB's proposal showed multiple projects demonstrating the desired experience. Id. The contracting officer determined that ABB's greater experience with more directly-

³ Where it increases clarity significantly, we will also cite to the sequential page numbering (aka Bates number), which the agency added to all agency report exhibits.

relevant projects justified paying ABB's higher price. More generally, in comparison to any of the competing firms, the contracting officer stated that "ABB's higher cost [was] offset by the clear technical advantages demonstrated in its offer." Id. After a debriefing, Koontz filed this protest.

ANALYSIS

Koontz argues that its proposal was misevaluated under the corporate experience and design experience subfactors, and that the agency made an unreasonable best value tradeoff. Protest attach. A, at 1. With respect to its challenge to the evaluation of its corporate experience, Koontz argues that its lack of experience in simultaneous RDC and LDC should have resulted in a "neutral" evaluation of the firm's corporate experience, rather than an unacceptable rating. Id. Turning to the firm's design experience, Koontz argues that the evaluators unreasonably found that the projects listed in its proposal lacked adequate details to show their relevance. The firm also argues that the agency incorrectly believed that Koontz's drawings and calculations had not been prepared by a professional engineer. Koontz argues that "page 9" in its proposal identified the person who prepared the drawings and calculations by name, and the proposal later identified him as a professional engineer. Id.

In reviewing an agency's evaluation of proposals, our Office will only question the agency's evaluation where it lacks a reasonable basis or is inconsistent with the stated evaluation criteria for award. DeLima Assocs., B-258278.2, Dec. 20, 1994, 94-2 CPD ¶ 253 at 3. Where a solicitation advises offerors that experience is to be evaluated, an agency may properly consider an offeror's specific experience in the area that is the subject of the procurement. Gulf Group, Inc., B-287697, B-287697.2, July 24, 2001, 2001 CPD ¶ 135 at 2-3. Our review of the record shows that the agency's evaluation of Koontz's proposal was reasonable.

With respect to the corporate experience subfactor, the Corps argues that simultaneous implementation of RDC and LDC is a critical aspect of the agency's requirement. The RFP expressly listed as a required element that offerors show documented successful experience implementing both RDC and LDC, and it also required offerors to list references who could verify that experience. Since Koontz concedes that its proposal showed only experience with one or the other, but not both RDC and LDC simultaneously, it did not provide the required experience. In our view, the Corps reasonably evaluated Koontz's proposal as unacceptable for this reason.⁴

⁴ To the extent that Koontz argues that the requirement for experience with RDC and LDC simultaneously unreasonably restricts competition, those arguments are challenges to the express terms of the RFP. The arguments are untimely because they were not raised before the due date for proposals. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (2013). Similarly, Koontz also failed to raise a timely challenge
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Under the design experience subfactor, the Corps argues that Koontz's proposal provided only minimal descriptions of its reference projects, and rather than identifying the person responsible for the calculations and drawings on "page 9" of its proposal, that page simply states (in large type) as follows: "Page intended to be left blank." AR, Tab 11, Koontz Proposal vol. I, at 9 (AR 001700) ("Chief Joseph Technical Proposal Page 9/171").

The RFP requested that descriptions of the offeror's electrical design experience should "clearly demonstrate how the project is relevant," and directed offerors to include calculations and drawings from a "registered Professional Engineer." RFP § 00 24 00-5 to -6. Our review of the record shows that Koontz's proposal provided minimal narrative to describe the scope of its design experience projects. For example, as its first project reference, the description of the scope of work was two sentences. The first stated that the project was for the replacement of two excitation systems of a particular type, and that each system "had redundant regulators with [particular technical features] and similar functions as requested for Chief Joseph." The second sentence simply stated that the design firm "also provided Engineering, Commissioning and Training services." AR, Tab 11, Koontz Proposal vol. I, at 90 (AR 001781). Thus Koontz's design experience references failed to provide most of the detailed information expressly requested by the RFP. In addition, as noted above and contrary to Koontz's argument, the firm's proposal did not state that the accompanying design drawings and calculations were prepared by a professional engineer. Since the proposal thus did not show that the firm had the design experience requested by the terms of the RFP, the evaluators reasonably rated Koontz's proposal as marginal under the design experience subfactor.

Finally, Koontz argues that the Corps made an unreasonable best value decision in selecting ABB's proposal for award at that firm's higher price. Protest attach. A, at 1. Where an agency selects a higher-priced proposal over a lower-rated but lower-priced alternative, the agency's contemporaneous record must show that the source selection official was aware of the technical advantages of the awardee's proposal, and specifically determined that those advantages were worth the awardee's higher cost. 4-D Neuroimaging, B-286155.2, B-286155.3, Oct. 10, 2001, 2001 CPD ¶ 183 at 11. Our Office's review will assess whether the agency fully considered all of the underlying evaluation documentation in concluding that the awardee's technical advantages warranted its higher cost, and whether that judgment was reasonable. Science Applications Int'l Corp., B-290971 et al., Oct. 16, 2002, 2002 CPD ¶ 184 at 21.

(...continued)

to the terms of the RFP, which did not provide for a "neutral" rating under the corporate experience and design experience subfactors.

Here, the record reflects that the contracting officer compared the evaluated advantages of ABB's proposal to each of the other offerors. In comparison to Koontz's proposal, the contracting officer concluded that ABB possessed the experience required by the RFP--particularly in successful simultaneous implementation of RDC and LDC--and that ABB had experience that was more clearly relevant to the RFP requirements. The contracting officer found that, together, these advantages justified paying ABB's higher price in comparison to Koontz. The contracting officer's tradeoff was thus consistent with the RFP's award criteria, which made the technical factor the most important non-price factor, and made the non-price factors, together, significantly more important than price. Koontz has given our Office no basis to question the best value decision.

The protest is denied.

Susan A. Poling
General Counsel