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United States Government Accountability Office
Washington, DC 20548

Comptroller General
of the United States

Decision

Matter of: NCR Government Systems LLC

File: B-297959; B-297959.2

Date: May 12, 2006

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GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging agency's acceptance of a late revision to awardee's proposal is
denied where the agency reasonably accepted revision as a modification to an
otherwise successful proposal.

2. Protest challenging agency's evaluation of compliance of awardee's proposed
equipment with solicitation requirements is denied where awardee stated that
equipment met requirements and its proposal provided no reason for agency to
conclude otherwise.

3. Protest challenging agency's technical evaluation of proposals is denied where
agency reasonably distinguished between offerors' proposals and protester was not
otherwise prejudiced by the evaluation.

DECISION

NCR Government Systems LLC protests the award of a contract to IBM Corporation
under request for proposals (RFP) HC1013-05-R-2006, issued by the Defense
Information Systems Agency, Defense Information Technology Contracting
Organization for the Commissary Advanced Resale Transaction System (CARTS).
The protester contends that the agency improperly accepted a late proposal revision
from IBM, waived a material RFP requirement for equipment for IBM, unreasonably

evaluated offerors' technical proposals, and made an improper best-value award determination.

We deny the protest.

BACKGROUND

The agency sought proposals for the CARTS program, which will provide the Defense Commissary Agency (DeCA) with its requirements for store sales operations. CARTS is intended to replace existing point-of-sale (POS) commissary systems with an updated commercial off-the-shelf system that includes sales hardware, associated software, technical refresh capabilities and maintenance. The CARTS solicitation requires provision of all personnel, supervision, management, training, materials and equipment for approximately 272 DeCA stores worldwide. The RFP anticipated award of an indefinite-delivery, indefinite-quantity contract with fixed-price delivery orders with a base performance period of 5 years with five 1-year option periods.

The RFP advised offerors that proposals would be evaluated on the basis of three non-price factors--technical, management, and present and past performance--each of which had several subfactors and elements within the subfactors. RFP at 60-63. The technical and management factors were of approximately equal weight, and were each more important than past and present performance, which was more important than cost/price. RFP at 57. Each evaluation subfactor and element was of approximately equal weight. Id. For purposes of the award determination, the RFP stated that the non-cost/price factors, when combined, were "significantly" more important than cost/price. Id. Award would be made to "the offeror whose proposal contains the combinations of factors offering the best overall value to the Government . . . [which] means the expected outcome of an acquisition that, in the Government's estimation, provides the greatest overall benefit in response to the requirement." Id.

Four offerors submitted proposals by the initial closing date, three of which were included in the competitive range. The agency conducted discussions with each competitive range offeror by providing written clarification and discussions questions. Offerors were required to respond to the written discussions and clarification questions, and were then given the opportunity to submit revised proposals.

As relevant to this protest, the agency evaluated the offerors' revised proposals as follows:[1]

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[1] The proposals were assigned color ratings for each factor, subfactor and element: blue/exceptional, green/satisfactory, red/unacceptable, and white/not applicable.

	NCR	IBM
1.0 Technical	Green/Low	Blue/Low
1.1 Keep Pace With Grocery Industry	Green/Low	Blue/Low
1.1.1 Customer Checkout	Green/Low	Blue/Low
1.1.2 Back Office	Green/Low	Blue/Low
1.1.3 Capabilities Demonstration	Pass	Pass
1.2 Improve Business Functionality	Green/Low	Blue/Low
1.2.1 Telecommunications/ Transport	Green/Low	Blue/Low
1.3 Security	Green/Moderate	Green/Low
1.4 Flexible Open System Architecture	Green/Low	Blue/Low
2.0 Management	Green/Moderate	Blue/Low
2.1 POS Implementation and Management	Green/Moderate	Blue/Moderate
2.1.1 Program Management	Green/Moderate	Blue/Low
2.1.2 CARTS Training	Green/Moderate	Blue/Moderate
2.1.3 Deployment	Yellow/Moderate	Green/Moderate
2.1.4 Incentive Structure	Blue/Low	Green/Moderate
2.2 POS System Availability	Green/Moderate	Blue/Low
2.2.1 Maintenance	Green/Moderate	Blue/Low
2.2.2 Help Desk	Green/Low	Blue/Low
2.2.3 Configuration Management	Blue/Moderate	Green/Low
2.2.4 Technical Refresh	Green/Moderate	Blue/Low
3.0 Present and Past Performance	Green/Low	Green/Low
3.1 Cost Control	Blue/Low	Blue/Low
3.2 Schedule	Yellow/Moderate	Green/Low
3.3 Mission Requirements	Green/Low	Green/Low
3.4 Quality	Green/Low	Green/Low
3.5 Management	Green/Low	Green/Low
3.6 Business Relations	Blue/Low	Blue/Low
4.0 Cost/Price	[deleted]	$148,107,429

(...continued)
RFP at 58. A risk rating of low, moderate, or high risk was also assigned for each evaluation factor and subfactor. Cost/price was not scored. Id. at 59.

AR, Tab 11, Final Evaluation Report, 3-1-3-3. Based on IBM's higher-rated technical proposal and lower cost/price, the agency selected IBM's proposal for award. AR, Tab 13, Source Selection Decision (SSD). Following its debriefing, NCR filed this protest.

LATE SUBMISSION OF IBM'S CATALOG

NCR contends that the agency improperly accepted a late proposal revision from IBM, and that IBM's proposal should have been rejected as unacceptable. The RFP required offerors to provide a cost/price proposal consisting of five elements: a price schedule, a priced solution, a catalog, a deployment schedule, and a summary report. RFP at 36-38. The price schedule required "contract line item numbers/sub contract line item numbers (CLINs/SLINs) of the major component unit prices that will be used for evaluating and ordering purposes." RFP at 10. The catalog is a "price list which is a detailed list of all commercial items that are included in the proposed Price Schedule's CLINs and SLINs." Id. at 37. The catalog was required to "cross-reference to the offeror's proposal and/or GSA catalog" and "will be used for ordering [miscellaneous] individual items that are bundled under other CLINs/SLINs." Id.

IBM's initial proposal included all of the required cost/price proposal elements, including the catalog, and was submitted by the initial closing date for proposals. See AR, Tab 5, IBM Proposal. Following discussions, the agency informed offerors that final proposal revisions (FPR) could be submitted by November 21, 2005. In its FPR, however, IBM did not submit a revised catalog. On November 22, a member of the cost/price evaluation team noted that IBM's FPR did not have a revised catalog and so advised the contracting officer. Agency Cost/Price Evaluator Decl. ¶ 6. The contracting officer then contacted IBM, informing the firm that the agency had not received a revised catalog. Id. IBM responded that the catalog had been omitted by mistake, and submitted a revised catalog on November 22. AR, Tab 5, IBM FPR, Vol. V, E-mail from IBM to Agency Cost/Price Evaluator, Nov. 22, 2006.

The agency argues that the catalog was not required for the evaluation of proposals, and that, in any case, the acceptance of the late catalog was proper as "a late modification of an otherwise successful proposal." Federal Acquisition Regulation (FAR) Part 15 and the "Instructions to Offerors—Commercial Items" clause incorporated into the RFP state that late modifications "that make [the proposal's] terms more favorable to the Government, will be considered at any time it is received and may be accepted." FAR §§ 15.208(b)(2), 52.212-1(f)(2)(ii). An otherwise successful proposal is one that would result in the award of the contract to the offeror regardless of the late modification. Seven Seas Eng'g & Land Surveying, B-294424.2, Nov. 19, 2004, 2004 CPD ¶ 236 at 4.

The protester primarily contends that IBM's failure to submit its revised catalog with its FPR rendered its proposal unacceptable, and that the agency could not have awarded the contract to IBM without conducting discussions. The protester asserts

that, therefore, IBM was not an "otherwise successful offeror" whose late modification could be accepted. In this regard, the protester argues that, based on two clarification questions and responses, the agency required IBM to revise its catalog and IBM indicated that it would do so in its FPR. Thus, the protester concludes, IBM's initial proposal, as it relates to the catalog, was effectively revoked, and IBM's failure to submit a revised catalog rendered its proposal unacceptable. We disagree with the protester's characterization of the record and its legal conclusions.

First, as NCR acknowledges, offerors were not required to resubmit their entire proposals in response to the agency's request for FPRs; rather, offerors were permitted to submit only those portions of their proposals they wished to change. See Protester's Supplemental Comments, Apr. 10, 2006, at 3. Thus, the fact that IBM did not resubmit its catalog with its FPR did not, on its own, render IBM's entire proposal unacceptable.

Next, NCR incorrectly claims that the agency found IBM's initial catalog unacceptable or otherwise required a revised catalog. The agency's questions regarding the catalog were "clarification" items, rather than "discussions" items, a distinction which indicates that there were no deficiencies that needed to be addressed in order for the proposal to be considered acceptable. See FAR § 15.306. More importantly, the clarification items cited by NCR do not identify any areas where the agency indicated that IBM's catalog was unacceptable or required revision.

More specifically, the first clarification item requested that IBM address differences between prices in its catalog and its price schedule:

> Request the offeror review Catalog pricing for C0091 Server and C0092 Disk System Model and compare to unit prices provide[d] for 0044AA Hardware Service Centers. . . . The unit price in the Priced Solution should be the sum of items bundled in the Catalog for a given CLIN/SLIN. Request the offeror explain differences in unit prices between the Catalog and the Price Schedule.

AR, Tab 7A, IBM Items for Clarification/Discussion, CET No. 14, at 23.

In its written response, IBM explained that, in its view of the RFP, "[t]here was no RFP requirement for the rolled up catalog prices to equal the bundled CLIN prices. Id. at 23-24. IBM further stated:

> Along with the current catalog items for CLIN 0044AA, there are also several other components that we will include as additional catalog items. We will also add configuration components to the end items currently provided in the catalog to allow DeCA to procure identical

> servers and storage devices to those used in the Server Centers. This
> will result in an increase in current catalog prices for these items.

Id. at 24.

Nothing in this exchange indicated that IBM's catalog was deficient or required revision; rather, IBM indicated that it would add additional items to its catalog. In this regard, IBM stated in its response to the second of the clarification items cited by NCR that there was nothing in the price proposal, which details all of the prices for IBM's technical solution, that was not also in the catalog: "(3) There are no items listed in the Catalog that are not included in the Price Solution." Id., CET No. 36, at 60. To the extent that IBM stated that additional items would be added, this revision had nothing to do with making its proposal acceptable.

In the second clarification item, the agency requested that IBM respond to the following request: "Price all CLINs and SLINs in the proposal solution in the Catalog. Prices in the Priced Solution should be a sum of the items bundled in the catalog." Id. at 58. IBM responded that its response to the first clarification item, discussed above, applied here as well:

> Please see our response to CET 14. As explained, we followed the RFP
> instructions and included major end items in the catalog. Also
> explained in that response are several reasons that the sum of items in
> the catalog for each CLIN may not equal the price of the bundled CLIN.

Id. at 60.

The record shows that the agency evaluated the offerors' proposed cost/price based on the agency's calculations of proposals' "total discounted life-cycle cost" (DLCC), and that the agency did not rely on the catalog for evaluating offerors' proposed cost/prices.[2] In this regard, the agency's final evaluation of offerors' proposals determined that both IBM and NCR's cost/price proposals were complete, including catalogs. AR, Tab 10C, Final Cost Evaluation Report, §§ 2.1.2 (NCR), 2.1.3 (IBM). The agency noted, however, that neither offeror's catalog corresponded completely with its cost/price proposal. Id. In the final evaluation, the agency concluded with regard to both IBM's and NCR's cost/price proposals: "All requirements were priced, and figures correctly calculated, and presented in a clear and useful format."

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[2] The RFP stated that proposals would be evaluated based on their DLCC. RFP at 63-64. The RFP explained that "[t]he DLCC will be determined based on the Priced Solution, which is based on the offeror's proposed prices contained in the Price Schedule and quantities provided in Attachment 5 Evaluation Quantities, over a 120-month period." Id. at 63. The RFP does not describe any role for the catalog for cost/price evaluation purposes.

AR, Tab 11, Final Evaluation Report, at 2-74, 2-116. Therefore, even if IBM had not resubmitted its catalog, the agency's original concern regarding the mismatch between catalog and proposal prices would not have posed a barrier to award; indeed, both IBM's and NCR's FPR catalogs failed to completely address this issue.

In sum, we conclude that nothing in the exchanges between IBM and the agency indicated that IBM's original catalog was unacceptable; thus, the agency could have awarded the contract to IBM without receiving the revised catalog. In these circumstances, the fact that a revised version was requested and received does not change this fact, and we conclude that the agency could properly consider a revised catalog from IBM as the otherwise successful proposal.[3] On this record, therefore, we deny this ground of protest.

AUTOMATED COIN WRAPPER

The protester next argues that the agency improperly waived an RFP requirement for an automated coin wrapper that it contends was missing from IBM's proposal. The "back office" element of the "keep pace with grocery industry" subfactor of the technical evaluation factor required offerors to demonstrate their ability to provide "functions in accordance with the SOO [statement of objectives] and its attachments. (Performance Specification 3.1.2)." RFP at 60, § 1.1.2. System performance specification (SPS) § 3.1.2 listed several required components for the back office, including a cash management system, which was defined as "cash/coin counting machines that interface with the front-end cashier closeout settlement process whereby . . . cash/coins are loaded and processed." RFP, SPS § 3.1.2.2.1. The hardware requirements in the SPS identified the following requirement for the cash

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[3] The protester contends that our decision in CCL. Inc., B-251527, B-251527.2, May 3, 1993, 93-1 CPD ¶ 354, is germane to the present protest. In CCL, we sustained the protest because the agency improperly accepted a late proposal revision by the awardee. CCL is distinguishable from the circumstances here, however, because the awardee's proposal in CCL had expired based on its own terms prior to the time for receipt of best and final offers (BAFO), and the awardee did not extend its prior proposal or timely submit a new one. Thus, when the awardee's proposal was received after the time for receipt of BAFOs, the agency could neither make award based on the prior, expired proposal, nor accept the new, untimely BAFO. NCR argues that submission of IBM's FPR revoked its prior proposal. The act of submitting an FPR here, however, did not revoke the entirety of the prior proposal because, as discussed above, offerors were permitted to submit FPRs consisting of changes to certain portions of their proposal, rather than resubmitting an entirely new proposal. In the absence of a defect in the original catalog, nothing prevented the agency from making award based on an FPR from IBM that did not include a revised catalog; the late revision to the catalog was therefore properly accepted as a modification of an otherwise successful proposal.

management system: "The cash management system hardware shall be comprised of a bill and coin counter/sorter, an integrated printer, and automated coin wrapper." Id. § 3.2.2.7.

IBM's proposal described the coin sorter that would be provided to meet the back office function hardware requirements:

> The [deleted] is a rugged, easy-to-use coin sorter that can handle every US coin, from the penny to the Susan B. Anthony Golden Dollar. This coin sorter is able to handle the coinage volumes at large a DeCA commissary, with processing speeds of to [deleted] coins per minutes. The accuracy rating on the [deleted].

AR, Tab 5, IBM FPR, Vol. II, at 91.

During discussions, the agency requested that IBM confirm that its proposed equipment met the RFP requirements in the following clarification item during discussions:

> Information Required from the offeror: Request the offeror confirm 0013AD/0014AD Cash Management System includes the following in accordance with the RFP: bill and coin counter/sorter, integrated printer, and automated coin wrapper.
>
> Response: IBM's Cash Management System, CLINs 0013AD/0014AD includes bill and coin counter/sorter and automated coin wrapper.

AR, Tab 7B, IBM Items for Clarification/Discussion, at 38.

The protester argues that the product literature for the proposed IBM equipment demonstrates that the [deleted] model does not provide automated coin wrapping. NCR contends that the description for the [deleted] coin wrapping function indicates that a user must [deleted].

The agency argues that the RFP did not provide specific standards for evaluating the term "automated coin wrapper." Moreover, the agency notes, product literature regarding offerors' proposed equipment was not required. Aside from the description of the [deleted], quoted above, and a picture of the equipment, IBM's proposal did not provide product information and did not submit the brochure.

We conclude that nothing in the narrative description or pictures in IBM's proposal or IBM's clarification response put the agency on notice that the equipment would not meet the RFP requirement for an automated coin wrapper; to the contrary, IBM's response to the clarification item affirmatively stated that its proposed equipment

met the automated coin wrapper requirement.[4] Where an solicitation has no requirement for product literature or other detailed descriptions of the equipment, where the awardee has not submitted such information, and where the agency has no basis to question the representation of the offeror, a post-award challenge to an awardee's compliance with a solicitation requirement based on product literature that was not submitted with the awardee's proposal does not render the agency's determination unreasonable. TransAtlantic Lines, LLC, B-296245, July 14, 2005, 2005 CPD ¶ 147 at 4; Rockwell Elec. Commerce Corp., B-286201 et al., Dec. 14, 2000, 2001 CPD ¶ 65 at 10-11.

In any case, the protester does not demonstrate that it was prejudiced by the agency's actions. To succeed in its protest, the protester must demonstrate not only that the agency failed to evaluate proposals in accordance with the solicitation and applicable regulations, but also that the failure could have materially affected the outcome of the competition. McDonald Bradley, B-270126, Feb. 8, 1996, 96-1 CPD ¶ 54 at 3; see Statistica, Inc. v. Christopher, 102 F.3d 1577, 1581 (Fed. Cir. 1996). NCR does not demonstrate that it would or could have materially improved its competitive position had it been given an opportunity to submit a different coin sorter. See Northrop Grumman Tech. Servs., Inc.; Raytheon Tech. Servs. Co., B-291506 et al., Jan. 14, 2003, 2003 CPD ¶ 25 at 35. On this record, therefore, we deny this ground of protest.

TECHNICAL EVALUATION

NCR next argues that the agency improperly evaluated the offerors' technical proposals, for example by finding strengths in IBM's proposal or weaknesses in NCR's proposal in areas where NCR contends the offerors' proposals were similar or identical. In reviewing a procuring agency's evaluation of an offeror's technical proposal, our role is limited to ensuring that the evaluation was reasonable and consistent with the terms of the solicitation and applicable statutes and regulations. L-3 Communications Westwood Corp., B-295126, Jan. 19, 2005, 2005 CPD ¶ 30 at 5. Our Office will not question an agency's evaluation judgments absent evidence that those judgments were unreasonable or contrary to the stated evaluation criteria. Kay & Assocs., Inc., B-291269, Dec. 11, 2002, 2003 CPD ¶ 12 at 4.

The RFP advised offerors that non-cost/price factors would be evaluated by assessing the strengths and weaknesses of proposals. RFP at 59. Proposal elements would be assigned significant strengths, strengths, weaknesses, significant

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[4] IBM and the agency contend that the [deleted] does in fact provide automated coin wrapping capabilities that meet the RFP's requirements. Because we conclude that there was no reason for the agency to further scrutinize IBM's proposal, we need not resolve whether IBM's equipment is unacceptable under NCR's interpretation of the RFP requirement for an "automated coin wrapper."

weaknesses, and deficiencies. Id. Evaluation ratings were not averages of the individual evaluators' scores, but rather consensus determinations by the evaluation teams based on proposals' overall strengths and weaknesses. See Agency Memorandum of Law at 12.

We discuss below each of the five evaluation areas that NCR claims were misevaluated.[5]

(1) Maintenance

The "maintenance" element of the "POS system availability" subfactor of the management evaluation factor required offerors to "describe maintenance procedures for the various types of system failures such as critical, non-critical, and routine failures . . . [and] [d]escribe levels of maintenance support (on-site user, customer engineer, off-site depot) and procedures for unscheduled and scheduled or preventative maintenance." RFP at 62, § 2.2.1; SOO Maintenance Plan, at 193-94.

The agency credited IBM with a "significant strength" for proposing to "provide full [deleted] maintenance [deleted] for all CARTS components at all DeCA CARTS sites." AR, Tab 11, Final Evaluation Report, at 2-54. NCR contends that IBM's proposal did not propose [deleted], but rather provided for [deleted]. Supplemental Protest at 7. The protester cites as evidence IBM's proposal to [deleted] as indicated by the following statement in its proposal: "IBM's solution is an optimized, cost effective solution that contains devices whose maintenance [deleted]." AR, Tab 5, IBM FPR, Vol. III, at 65.

The agency responds that IBM's proposal described [deleted] maintenance of equipment, and that the proposal's description of the IBM's [deleted] referred to the repair of equipment that [deleted] maintenance. The complete context of the proposal provision cited by the protester explains that IBM's approach to [deleted] involves reports to a Help Desk, which arranges for [deleted] location for [deleted] repair/maintenance. As IBM's proposal explains, "[u]pon receipt of the replacement part, the [deleted] POC [point of contact] will remove the replacement part from the shipping container, exchange the failed one with the new one and return the failed unit back to IBM in the replacement part's shipping container using the prepaid

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[5] The supplemental agency report provides additional explanations as to why IBM was evaluated as having strengths under the five technical evaluation issues cited by the protester. Although the explanations for the strengths provided by the agency are more detailed than the evaluation summaries in the contemporaneous record, we conclude in each case that they are consistent with the contemporaneous evaluation and IBM's proposal. Therefore we do not conclude, as NCR's suggests, that the agency has provided improper post hoc or conflicting information as compared to the contemporaneous record.

shipping label included with the replacement part." AR, Tab 5, IBM FPR, Vol. III, at 65. The agency considered IBM's proposal to provide [deleted] maintenance because any [deleted] work would occur only where the equipment was [deleted] because of the [deleted] maintenance. Agency Supp. Memorandum of Law at 15.

We conclude that the agency's determination that IBM's proposal merited a "significant strength" for this issue based on its maintenance approach was reasonable and that the protester has provided no basis to challenge the evaluation.

(2) Automated Store Close Procedure

The "customer checkout" element of the "keep pace with grocery industry" subfactor of the technical factor required offerors to demonstrate:

> system capabilities to perform customer checkout in accordance with the SOO and its attachments . . . [and] to provide for pickups and loans inherent to the cashier balancing and register closeout functions, including approach to ensuring data integrity of sales and financial data and exchange with other POS business processes and data systems.

RFP at 60, § 1.1.1.

The agency assigned IBM a "significant strength" for proposing "an automated store close procedure that runs the end of day (EOD) for the cash office." AR, Tab 11, Final Evaluation Report, at 2-34. NCR contends that its proposed system provided a similar feature, but was not given credit for it.

IBM's proposal stated that its software provides:

> [A]utomated store close functionality to eliminate the need for store personnel [deleted] the store close, thus eliminating mistakes that may occur during this process. Store personnel no longer [deleted]. In this same way, the automated store close feature will help DeCA reduce store labor expense, and improve the accuracy of the data tracked across all commissaries.

AR, Tab 5, IBM FPR, Vol. II, at 36.

With respect to store closing procedures, NCR's proposal stated that its software

> can [deleted].

AR, Tab 6, NCR FPR, Vol. II, at II.1.2-5.

The agency says it interpreted NCR's proposal to provide for [deleted]. Agency Supp. Memorandum of Law at 17-18; AR, Tab 6, NCR FPR, Vol. II, at II.1.2-7. Thus, the agency contends, NCR's proposal is different from IBM's proposed approach, as the latter's end of day closing procedure occurs [deleted], thereby eliminating risks of [deleted]. Id. NCR argues that the agency's distinction between the two systems is a fine one, in that the agency is crediting IBM for having an [deleted] process as compared to NCR's process, which appears to require little [deleted] to initiate. We do not conclude on this record that the agency's evaluation was unreasonable for drawing this distinction, even though NCR believes it is a fine one. In this regard, our Office will not substitute our own judgment where the agency's conclusions are reasonable. See International Marine Prods., Inc., B-296127, June 13, 2005, 2005 CPD ¶ 119 at 6.

In any event, there appears to be no possibility of prejudice to NCR for this evaluation because IBM's evaluated advantage over NCR under the customer checkout element was so large. In this regard, IBM received the highest rating (blue) and based on 14 significant strengths (including automated store close procedure), 13 strengths, and no weaknesses; in contrast, NCR received the second-highest rating (green), based on 1 significant strength, 12 strengths, and no weaknesses. AR, Tab 11, Final Evaluation Report, at 2-34, 2-79. Even if we were to agree with NCR's argument on this protest issue, there does not appear to be any reasonable basis to conclude that NCR's evaluation score or relative standing to IBM could improve under this evaluation element.

(3) Encryption of Electronic Shelf Label Transmitted Data

The RFP required offerors to "comply with DoD and DeCA telecommunications requirements" under the "telecommunications/transport" element of the "improve business functionality" subfactor of the technical evaluation factor. RFP at 61, § 1.2.1. The performance specifications for this requirement stated:

> Air Fortress: Secure wireless support shall be required for wireless registers and hand held terminals. To achieve secure wireless transmission of data, CARTS shall interoperate with DeCA's wireless security solution and be adaptable to other emerging Wireless Local Area Network (WLAN) security solutions.

> Electronic Shelf Labels (ESLs): ESL technology that relies on wireless [radio] communications shall be secure from compromise as required by DoDD [Department of Defense Directive] 8100.2. If the existing commissary wireless infrastructure is used to support ESL, the CARTS ESL equipment shall integrate with DeCA's secure wireless infrastructure and utilize the implemented encryption technology.

RFP, SPS §§ 3.4.12.1, 3.4.12.4.

The agency assigned NCR's proposal a weakness for failing to propose data encryption for wireless transmissions of electronic shelf label (ESL) data. The protester argues that the agency unreasonably assigned a weakness to NCR in this regard, despite the fact that IBM also did not propose ESL encryption.

The agency determined that NCR's proposal for an ESL wireless transmission "does not encrypt transmitted data using DeCA's Air Fortress infrastructure or any alternative mechanism." AR, Tab 11, Final Evaluation Report, at 2-83. NCR does not dispute that it did not propose to use the Air Fortress infrastructure to encrypt data, but contends that IBM did not do so either, yet was not assessed a similar weakness.

As the agency and intervenor note, IBM's proposal stated that it viewed the Air Fortress infrastructure requirements as not applying to IBM's proposed ESL transmission equipment. AR, Tab 5, IBM FPR, Vol. II, at 59. IBM's proposal explained that it relied on ESL equipment that [deleted] were exempt under the DoDD 8100.2 provisions for [deleted].[6] Id. The agency states that it relied upon this proposal language to determine that IBM's approach to ESL, which [deleted] DoDD 8100.2, was acceptable. Agency Supp. Memorandum of Law at 19. In the absence of evidence to the contrary, we believe that the agency could reasonably rely upon IBM's proposal's assurance that it was not required to use the AirFortress infrastructure. We conclude, therefore, that the agency's evaluation here was reasonable.[7]

(4) Support for Internet Protocol Version 6

The RFP required offerors to meet the following requirement under the telecommunications/transport element:

> Internet Protocol Version 6: CARTS shall be fully operational in a
> Transmission Control Protocol/Internet Protocol (TCP/IP) networking

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[6] Department of Defense Directive, Use of Commercial Wireless Devices, Services, and Technologies in the Department of Defense (DoD) Global Information Grid (GIG) "[e]stablishes policy and assigns responsibilities for the use of commercial wireless devices, services, and technologies in the DoD GIG." DoDD 8100.2, available at: http://http://www.dtic.mil/whs/directives/corres/pdf.d81002_041404/d81002p.pdf. The Directive states: [deleted].

[7] The protester also argues that it was unfairly evaluated because its proposal stated that the Air Fortress requirements were inapplicable because NCR intended to use [deleted]. AR, Tab 6, NCR FPR, Vol. II, II.2.1-3-4. However, NCR's proposal did not propose a clear alternative to the RFP requirements or a basis for exemption under DoDD 8100.2; rather, it simply stated that [deleted] that NCR intended to use. Id. at 2.1-4.

environment and compatible with Internet Protocol Version (IPv) 6.
CARTS shall be IPv6 capable (in addition to maintaining
interoperability with IPv4 system/capabilities). DeCA's network
configuration at the time of initial deployment will rely on IPv4 and
CARTS shall be re-configurable to support IPv6 when DeCA transitions
its entire network infrastructure.

RFP, SPS § 3.4.1.

The agency assigned NCR's proposal a "key risk" under this element based on NCR's
failure to provide Internet Protocol Version 6 (IPv6) functionality at deployment.
NCR contends that IBM lacked this capability as well, and was not assessed a similar
risk. The agency determined that "[s]ince the NCR CARTS solution is not IPv6
compatible at initial deployment, DeCA cannot predict the impact of transition
between IPv4 and IPv6." AR, Tab 11, Final Evaluation Report, at 2-83. NCR notes,
and the agency acknowledges, that neither IBM nor NCR proposed IPv6 capabilities
at the time of initial deployment. Agency Supp. Memorandum of Law at 21.

There does not appear, however, to be any possibility that NCR was prejudiced by
this evaluation. Despite the "key risk" finding, the agency still rated NCR, overall, as
"low risk" for the telecommunications/transport element, the same risk rating IBM
received for this element. AR, Tab 11, Final Evaluation Report, at 2-40, 2-84. Thus,
eliminating this risk for NCR or assigning IBM an equal risk would not have
improved NCR's risk rating vis-à-vis IBM in a manner that could have improved
NCR's prospects for award.[8] That is, there is no indication in the record that the risk
evaluation under this technical element influenced the subfactor or factor ratings in
a manner that potentially prejudiced NCR or was in any way a basis to discriminate
between the offerors' proposals. Thus, we conclude, that there is no possibility of
prejudice to NCR under this evaluation.

(5) Monitoring Software

The agency assigned a strength to IBM under the telecommunications/transport
element for proposing "a suite of monitoring software . . . that [deleted]." AR,
Tab 11, Final Evaluation Report, at 2-20. NCR argues that its proposal provided the
same monitoring software feature, and that the evaluation was therefore unequal.

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[8] The agency's evaluation of IBM did not address IPv6. The agency assigned one key
risk to IBM for [deleted], and a risk for dependence on [deleted]. AR, Tab 11, Final
Evaluation Report, at 2-40. For NCR, the agency listed two key risks for IPv6
[deleted]. AR, Tab 11, Final Evaluation Report, at 2-83-84. NCR does not challenge
the latter key risk.

The agency contends that were substantive differences between the proposals, most notably, that IBM's software provided monitoring for [deleted]. Agency Supp. Memorandum of Law at 22. The agency concluded that IBM's proposal exceeded the RFP requirements. In contrast, the agency concluded that NCR's proposal met, but did not exceed, the RFP requirements. In particular, the agency found that NCR's monitoring support was limited to [deleted]. Id. On this record, we conclude that the agency reasonably found that IBM's proposed monitoring software was a strength as compared to NCR's proposed software.

In any event, there is no potential prejudice to NCR under this evaluation as well. Overall, for this technical evaluation element, the agency found that IBM's proposal warranted three significant strengths, four strengths and no weaknesses; NCR's proposal warranted two strengths and one weakness. Even if the agency had considered the offerors equal with regard to monitoring software, an additional strength for NCR or one less strength for IBM would not have clearly resulted in a different rating under this element.

In sum, we conclude that the agency's evaluation for all of these technical issues provides no basis to sustain the protest.

BEST VALUE DETERMINATION

NCR argues that the alleged evaluation errors discussed above renders the best value determination and source selection decisions unreasonable. Because we find no basis to challenge the agency's evaluation of offerors, there is no basis to challenge the source selection decision (SSD).[9]

The protest is denied.

Anthony H. Gamboa
General Counsel

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[9] The protester has raised other challenges to the agency's evaluation of proposals in relation to the various issues discussed above. For example, NCR alleges that the agency has demonstrated a general pattern of unequal treatment and bias against NCR. We have reviewed all of NCR's protest allegations and find none of them warrants sustaining the protest.