



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Twentyfirst Century Technological Innovations  
Research and Development Enterprising

**File:** B-225179.2

**Date:** April 1, 1987

### DIGEST

In light of agency discretion under Small Business Innovation Research Program to fund or reject any particular proposal, General Accounting Office review of agency's rejection of a proposal submitted under that program is limited to determining whether agency complied with any applicable regulations and solicitation provisions and whether agency acted fraudulently or in bad faith.

### DECISION

Twentyfirst Century Technological Innovations Research and Development Enterprising protests the National Aeronautics and Space Administration's (NASA) failure to award it Phase I research funds for a project the firm proposed in response to Subtopic 10.03, "Dynamic Space Power Conversion Systems," of NASA solicitation No. SBIR 86-1. Twentyfirst contends that NASA failed to evaluate its proposal properly and argues that a proper evaluation would have resulted in the funding of Twentyfirst's project.

We deny the protest.

The solicitation was issued under the Small Business Innovation Research Program. This program was established under the Small Business Innovation Development Act (Innovation Act), 15 U.S.C. § 638 (1982 and Supp. III 1985), which requires federal agencies to reserve a portion of their research and development efforts for awards to small businesses under solicitations issued pursuant to the Innovation Act. The solicitation provided for each Phase I proposal to be evaluated on a competitive basis in accordance with expressly stated evaluation criteria. These were the scientific/technical merit of the proposed concept and the proposal's statement of objectives and approach; the qualifications of the principal investigator, his staff and facilities; anticipated benefits; and soundness and technical merit of proposed work plan.

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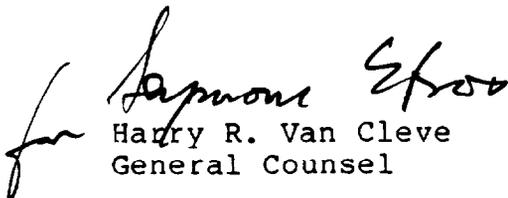
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After evaluating Twentyfirst's proposal in accordance with the criteria, the agency rejected that proposal because it offered no potential for, or expectation of, any viable emerging technology or project worthy of funding. The evaluators were not convinced that the firm had the technical ability to conduct the proposed project because the principal investigator's (the offeror's) experience and education was not relevant to the proposed endeavor and because Twentyfirst provided no information on the facilities to be used in completing the project. The protester states, in essence, that it strongly objects to the agency's technical conclusions and argues that a number of important nations have shown great interest in Twentyfirst's technology.

The selection of research proposals solicited pursuant to the Innovation Act is a competitive procedure. 10 U.S.C. § 2302(2)(E) (Supp. III 1985); Anthra Pharmaceuticals, Inc., B-220523, Jan. 8, 1986, 86-1 CPD ¶ 17. However, the law does not require award under this program to be made to any particular proposer, and a Small Business Administration Policy Directive specifically provides that the "agency is under no obligation to fund any proposal or . . . specific number of proposals . . . [and] may elect to fund several or none of the proposed approaches . . . ." Since the agency, therefore, has significant discretion to determine what proposals, if any, it will accept, our review in cases such as this is limited to determining whether the agency violated any applicable regulations and solicitation provisions and whether the agency acted fraudulently or in bad faith. Twentyfirst Century Technology Innovations Research and Development Enterprises, B-225179, Mar. 17, 1987, 87-1 CPD ¶ \_\_\_\_.

Here, the agency, in the exercise of its technical judgment, concluded that the protester's project offered no potential for, or expectation of, any viable emerging technology or project worthy of funding. While it is clear that the protester disagrees with the agency's view, it has not demonstrated that the agency's conclusion regarding this highly technical project is the result of possible fraud or bad faith or that there has been a violation of any regulation or solicitation provision.

We deny the protest.

  
for  
Harry R. Van Cleve  
General Counsel