



United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Glatz Aeronautical Corporation

File: B-405851; B-405851.2

Date: January 6, 2012

Jeffrey D. Glatz for the protester.

Michael Kravcinovich, Esq., Department of the Army, for the agency.

Christina Sklarew, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protester's challenge to agency's decision not to fund protester's proposal under phase I of a solicitation issued pursuant to the Department of Defense Small Business Innovation Research program is denied where, consistent with the solicitation's criteria, the agency reasonably determined that the protester's proposal was ranked 18th of 20 proposals.

DECISION

Glatz Aeronautical Corporation protests the decision of the Department of the Army not to fund Glatz's Phase I proposal under Department of Defense (DOD) Small Business Innovation Research (SBIR) program solicitation No. FY11.2.

We deny the protest.

BACKGROUND

The SBIR program is designed to increase the participation of small business concerns in federally funded research or research and development (R&D). See Small Business Innovation Research Program Act of 1982, 15 U.S.C. § 638 (2006). Pursuant to this authority, federal agencies (such as the Army) with R&D "extramural" budgets in excess of \$100 million are required to provide a program under which a portion of the agency's research or R&D effort is reserved for award to small business concerns through a three-phased process. See 15 U.S.C. § 638(e)(4), (f). Under phase I, small businesses are invited to submit proposals to conduct research on one or more topics specified in the annual SBIR program solicitation. Under phase II, firms that received phase I awards may, on their own

initiative, submit proposals for further development work on the topic. Phase III contemplates that, unlike phases I and II, non-SBIR funds will be used to pursue commercial applications of the R&D. See Kolaka No`eau, Inc., B-291818, Apr. 2, 2003, 2003 CPD ¶ 67 at 2-3; <http://www.acq.osd.mil/sadbu/sbir/overview/index.htm>.

The Army issued the solicitation in April 2011, seeking phase I proposals for multiple topics, including Army Topic A11-071, “Fail Safe Adaptive Energy Absorber for Helicopter Crash Safety Seating Systems.” The topic sought the development of “a fail-safe adaptive energy absorber (FSAEA), with an intelligent adaptive load-stroke profile and vibration reduction, to reduce occupant fatigue during normal flight, as well as ensure that lumbar loads and occupant accelerations are adequately attenuated in a high sink rate crash landing.” Offerors were informed that the Army was aggressively pursuing a novel, adaptive crash safety technology for a range of helicopter applications with the intention of minimizing the probability of injury to crew when a helicopter is falling at rates as high as 50 feet/second.

The solicitation instructed offerors to design an absorber capable of providing fail-safe energy attenuation for a “stroking” seat crash protection system. Agency Report (AR), Tab 4-2, Proposal Submission Instructions, at Army, at 14. Offerors were informed that the agency would “select for award those proposals offering the best value” to the government, considering the following factors, in descending order of importance: (1) technical merit and innovation of the proposed approach and its incremental progress toward topic or subtopic solution; (2) qualifications of the proposed principal/key investigators, supporting staff, and consultants; and (3) the potential for commercial application and the benefits expected to accrue from this commercialization. Solicitation at 17-18.

The Army received 20 phase-I proposals under this topic, including Glatz’s, which were evaluated under a two-tier process. Under tier 1, a technical evaluation team (TET), comprised of Army scientists and technologists, and a team chief, conducted a scientific review process and technical assessment of proposals.¹ The TET would forward those proposals deemed best to the technical area chief for the tier 2 evaluation, under which a source selection evaluation board (SSEB) would review and validate the tier 1 recommendations and provide analysis and recommendations to the source selection authority.² AR at 2-3; AR, Tab 5, SBIR Source Selection Plan, at 25-26.

¹ The Army’s SBIR Source Selection Plan provides that TET members would evaluate proposals solely under the factors identified in the solicitation, and not against other proposals under the topic.

² Of the 20 proposals received here, only 2 proposals (not Glatz’s) were recommended for tier 2 review. Ultimately, only 1 proposal was recommended to receive SBIR funding. AR, Tab 8, Funding Recommendation.

Glatz proposed to develop a “Level-of-Threat Energy-Attenuator,” which it stated was based on a solenoid-controlled linear brake (SCLB) previously developed by Glatz. Although the TET identified some strengths in Glatz’s proposal, it identified a number of weaknesses under each evaluation factor. For example, under the first factor (technical merit and innovation), the TET stated that they could not evaluate Glatz’s capability to meet the program objectives, because Glatz failed to clearly explain or describe the SCLB upon which Glatz’s approach was based. The TET also expressed concern that Glatz’s reference in its proposal to using off-the-shelf components indicated that these components may require modification, and the TET questioned whether the components could accurately be considered off-the-shelf. AR, Tab 7, Proposal Evaluation, at 2. One evaluator noted as a concern that Glatz was proposing to use multiple SCLBs to generate sufficient force, which the evaluator viewed would require extra parts, increasing system weight and complexity, and reducing reliability.

Under the second factor (qualifications of proposed personnel), the TET found that Glatz had not demonstrated extensive experience in the development of closed loop control systems and microelectronics, or in making the transition from research to development. The TET also questioned Glatz’s expertise in designing a controller, and noted that Glatz had not demonstrated strength in the field of product modeling, computer assisted design, or fabrication capabilities. Id. at 2-3.

Under the third factor (potential for commercial application), the evaluators found, for example, that Glatz had not provided specific details about bringing a product developed under this topic to market, nor had it demonstrated experience in transition of research to production, or identified potential partners for manufacturing. Id.

The TET assigned Glatz’s proposal an average numerical score of 36 of 100 possible points and ranked the proposal 18th of the 20 proposals received under this topic. The TET did not recommend the protester’s proposal for further review under tier 2. AR, Tab 7, Proposal Evaluation; Tab 8, Funding Recommendation, at 1. The SSEB concurred with the TET’s recommendation to not further consider Glatz’s proposal for funding.

Following a debriefing, Glatz protested to our Office.

DISCUSSION

Glatz challenges the evaluation of its proposal, arguing that it was unreasonable and inconsistent with the solicitation’s evaluation criteria. In addition, Glatz complains that the Army improperly conducted a “peer or scientific review” rather than a “best value” evaluation.

In reviewing protests against allegedly improper evaluations, it is not our role to reevaluate proposals. Rather, our Office examines the record to determine whether the agency's judgment was reasonable and in accord with the evaluation criteria. Abt Assocs. Inc., B-237060.2, Feb. 26, 1990, 90-1 CPD ¶ 223 at 4. The protester's disagreement with the agency's judgment does not establish that an evaluation was unreasonable. UNICCO Gov't Servs., Inc., B-277658, Nov. 7, 1997, 97-2 CPD ¶ 134 at 7. Moreover, an agency is accorded considerable discretion to determine which proposals will be funded under an SBIR procurement. Kolaka No`eau, Inc., supra, at 5-6.

The record here shows that the agency's evaluation of Glatz's proposal was consistent with the evaluation criteria and reasonable. Although Glatz disagrees with the agency's evaluation judgments regarding its proposal, the protester does not show the agency's judgment to be unreasonable concerning the merits of Glatz's proposal. We have considered all of Glatz's arguments and, while we do not discuss each of them here, we find that none provides a basis to object to the Army's determination not to select Glatz's proposal for award of a phase-I SBIR contract.

For example, Glatz disagrees with the agency's evaluated concern under the first factor (soundness, technical merit, and innovation of the proposed approach) that Glatz's proposed use of multiple SCLBs increased complexity and weight, and reduced reliability. Although Glatz now argues that the "extra" SCLBs were redundant components that could be removed during phase II if the Army did not want them, this does not appear consistent with its proposal. Rather, its proposal states that the use of multiple SCLBs is a result of the need to "scale" the original SCLB for use on a crashworthy seat, and "[s]ince there aren't solenoids large enough to use just one," it is necessary to use multiple units. See Protester's Proposal at 13. In any event, Glatz's argument reflects nothing more than disagreement with the agency's judgment, which does not show that the agency's concern was unreasonable.

As another example, Glatz objects to the agency's judgment under factor 3 (potential for commercial application) that Glatz did not present any evidence of potential partners for manufacturing, and that Glatz's proposed commercialization strategy lacked specific details about bringing a product developed under this topic to market.³ Protest at 15. Glatz contends that its proposal showed that the firm had successfully demonstrated a "supply-chain" approach which "explicitly identifies manufacturing," and argues that this is "evidence of potential partners." Id. In

³ Glatz also argues that this evaluation factor did not encompass the Army's evaluated weakness. We disagree. The solicitation provides at Section 4.4 that the assessment of a proposal's commercial potential will include considering any commitments of additional investment in the technology during phase II. See Solicitation at 18-19.

support of this contention, Glatz refers to a Company Commercialization Report in its proposal and asserts that it shows Glatz's commercializing of prior SBIR and Small Business Technology Transfer projects. This report indicates, however, that the firm received no phase-II awards and does not demonstrate a commercialization track record. Protester's Proposal at 22. Glatz's disagreement with the agency's judgment does not demonstrate that the agency's evaluation was unreasonable.

Glatz also contends that the agency failed to evaluate which proposals reflected the best value to the agency, complaining that the agency failed to compare the competing proposals against each other. See, e.g., Supp. Protest at 2, 5. This argument is without merit. The Army evaluated the merits of each proposal in accordance with the solicitation's evaluation scheme, assigning point scores (supported by narrative discussions) under each evaluation factor. Based upon the assigned point scores, and assessed strengths and weaknesses, two proposals were selected for further review under tier 2 and one was ultimately selected to receive funding. This was wholly consistent with the evaluation criteria stated in the solicitation for determining which SBIR proposal or proposals would be selected for funding.

The protest is denied.

Lynn H. Gibson
General Counsel