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**Comptroller General  
of the United States**

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

# Decision

**Matter of:** Glatz Aeronautical Corporation

**File:** B-293968.2

**Date:** August 10, 2004

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Jeffrey D. Glatz for the protester.

Mitzi S. Phalen, Esq., and Richard J. Huber, Esq., Department of the Navy, for the agency.

Henry J. Gorczycki, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## **DIGEST**

Agency's evaluation and selection of higher rated proposals for awards, under the Small Business Innovation Research program, for research and development into a lightweight crashworthy aircraft seating system is reasonable where awardees proposed new and innovative research, which was the expressed purpose of the solicitation, while protester essentially proposed additional testing to validate a seat that had not proven crash-worthy in prior testing, failed to propose specific changes to materials or design to address the excessive forces recorded during prior testing, and did not otherwise propose any significant new research and development.

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## **DECISION**

Glatz Aeronautical Corporation protests the evaluation of proposals under solicitation No. FY04.1, issued by the Department of Defense (DOD) for the Small Business Innovation Research (SBIR) program. Glatz's proposal was not one of the three proposals selected for award.

We deny the protest.

The SBIR program is conducted pursuant to the Small Business Innovation Development Act, 15 U.S.C. § 638 (2000), which requires certain federal agencies to reserve a portion of their research and development funds for awards to small businesses. In addition to advancing the role of small businesses and the participation of minority and disadvantaged persons in research and development, the objectives of DOD's SBIR program include stimulating technological innovation in DOD's critical technology area, and increasing the commercial application of

DOD-supported research and development results. The program has three phases: Phase I is to determine the scientific, technical and commercial merit of ideas; Phase II is the principal research and development effort resulting in a well-defined, deliverable prototype; and in Phase III, the small business seeks to obtain private and public funding to develop the prototype into a viable commercial product for sale to military and/or private sector markets. Solicitation §§ 1.1, 1.2.

This solicitation sought proposals for Phase I awards to be made by a number of participating DOD component agencies and offices, including the Department of the Navy. Each component agency identified technical topics. Phase I awards under Navy topic No. N04-008, Improved Crashworthy Seating for Naval Helicopters, are at issue here. As explained in the solicitation, the objective under this topic is to develop a lightweight crashworthy seating system capable of mitigating the high levels of inertial forces that would otherwise be imparted to an occupant during a crash impact. The rapid deceleration of a helicopter in a crash can be in excess of 50 g (gravitational constant), resulting in very high inertial loads on the aircraft and its occupants and a resulting high potential for inflicting serious spinal injury on unprotected occupants. Energy-attenuating seating systems have been developed that reduce an occupant's exposure to the force, but the weight of current energy-attenuating seats adversely affects the operational performance of aircraft, which has precluded the installation of these seats on some naval helicopter platforms. Therefore, there is an interest in developing crashworthy seating and other energy-attenuating systems capable of maintaining current levels of occupant crash protection at weights that are well below those of the conventional solutions. Of particular interest are concepts that take advantage of lightweight materials to provide an increase in structural efficiency over current designs whose main load-bearing members are comprised of conventional metals. Navy SBIR Proposal Submission Instructions at 16.

The stated system requirements under this topic included a maximum weight of 10 pounds, and the capability to meet "naval injury tolerance standards for body regions such as the head, neck, chest, pelvis, and lumbar spine." Id. at 16-17. The stated purpose for Phase I is to determine the feasibility of incorporating lightweight materials with dynamic performance characteristics into crashworthy seating designs. Prototyping design approaches and demonstrating mature design solutions were stated purposes of Phases II and III. Id. at 17.

The solicitation contemplated the award of one or more fixed-price Phase I contracts (or small purchase agreements) for a given topic for a 6-month base period with a 3-month option period. Proposals were to be evaluated on a competitive basis by scientists or engineers knowledgeable in the topic area, under the following evaluation criteria: (1) soundness, 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) potential for commercial application. Where technical evaluations were essentially equal in merit, cost to the government was to be

considered in determining the successful offeror. Solicitation § 4.2. The Navy reserved the right to limit awards to only those proposals considered to be of superior technical quality. Navy SBIR Proposal Submission Instructions at 1.

The Navy received 24 proposals under the improved crashworthy seating topic. The agency's evaluation team evaluated each proposal, identifying strengths and/or weaknesses and assigning adjectival ratings under each evaluation factor. The agency selected the top 3 proposals for award, including those submitted by East-West Industries, Inc., SAFE, Inc., and ArmorWorks, Inc. Although the agency considered Glatz's proposal to be satisfactory overall, each of the awardees' proposals were rated highly satisfactory. (The price differences between Glatz's and the awardees' proposals were negligible.)

Following a debriefing, Glatz filed this protest. Glatz asserts that the agency failed to comprehensively evaluate proposals.<sup>1</sup>

Where an agency is conducting an SBIR procurement, it has the discretion to determine which proposals it will fund. R & D Dynamics Corp., B-285979.3, Dec. 11, 2000, 2000 CPD ¶ 201 at 4. In light of this discretion, our review of an SBIR procurement is limited to determining whether the agency violated any applicable regulations or solicitation provisions, or acted in bad faith. U S Positioning Group, LLC, B-294027, June 21, 2004, 2004 CPD ¶ 133 at 2; see also Intellectual Properties, Inc., B-280803.2, May 10, 1999, 99-1 CPD ¶ 83 at 5-6. The agency's award decisions here were unobjectionable.

While Glatz disputes the evaluation, it has not shown that the agency's evaluation judgment was unreasonable. For example, under the evaluation factor for the soundness, technical merit and innovation of the proposed approach, Glatz's proposal was rated as unsatisfactory by two of the evaluators and only satisfactory by the third evaluator. In this regard, Glatz proposed to validate a "Light Weight Armored Troop Seat (LWATS)," which Glatz's proposal described as "a mature engineering solution" based on a prior version of a frameless, all-fabric troop seat (AFTS). Glatz Proposal at 3, 12-13, 18. However, the Navy had funded the prior work on the AFTS, and results from 1996 tests of that seat had shown that some forces exerted during the testing, particularly those related to occupant safety,

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<sup>1</sup> Glatz also alleges that the evaluators lacked the necessary technical and other expertise to properly evaluate proposals. However, the selection of individuals to serve as proposal evaluators is a matter within the discretion of the agency; accordingly, we will not review allegations concerning the qualifications of evaluators or the composition of evaluation panels absent a showing of possible fraud, conflict of interest, or actual bias on the part of evaluation officials. CAE USA, Inc., B-293002, B-293002.2, Jan. 12, 2004, 2004 CPD ¶ 25 at 9 n.8; Solid Waste Integrated Sys. Corp., B-258544, Jan. 17, 1995, 95-1 CPD ¶ 23 at 6. No such showing has been made here.

exceeded the upper permissible limits. The evaluators determined that Glatz's proposal did not adequately discuss reasons for the prior test failures with respect to lumbar loads, and did not include an adequate plan to investigate different materials or methodologies with the potential for mitigating those failures. In contrast, the awardees, whose proposals were rated as either outstanding or highly satisfactory under this factor, proposed specific approaches to exploring replacing components of crashworthy seats with lighter and stronger materials, and investigating improvements to the energy-attenuating devices and methodologies used in the seats. In other words, while the awardees proposed new and innovative research, which was the expressed purpose of this solicitation, Glatz essentially proposed additional testing to validate its mature engineering solution without proposing any significant new research and development for Phase I and without proposing specific changes to materials or design to address the excessive forces recorded during the prior testing. We find reasonable on this basis alone the agency's determination not to fund Glatz's proposed work.

In any case, the evaluators determined the awardees' proposals to be superior to Glatz's under the evaluation factor for the qualifications of the proposed principal/key investigators, and supporting staff and consultants, and equal to or superior to Glatz's under the evaluation factor for potential for commercial application. We find the evaluation in this regard also to be unobjectionable. For example, while Glatz's principal investigator had significant relevant experience in crashworthy seat testing and design, the awardees' principal investigators had at least equally significant relevant experience, including significant development experience on crashworthy seat technology, and some had more years of relevant experience than identified in Glatz's proposal. Furthermore, all of the awardees had greater depth of experience within their organizations and proposed teams than did Glatz. In summary, we find unobjectionable the agency's determination that the awardees' proposals were superior to Glatz's proposal.

The protest is denied.

Anthony H. Gamboa  
General Counsel