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**Comptroller General  
of the United States**

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

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## **Decision**

**Matter of:** Nautical Control Solutions, LP

**File:** B-299918

**Date:** October 1, 2007

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Dayle C. Pugh, Esq., and Kyle A. Spelman, Esq., Bateman Pugh LLP, for the protester. Andrew Saunders, Esq., Department of the Navy, for the agency. Charles W. Morrow, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### **DIGEST**

Protest challenging procuring agency's decision not to fund proposal under phase I of the Department of Defense, Small Business Innovation Research Program is denied where the record shows that the agency reasonably evaluated the proposal.

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### **DECISION**

Nautical Control Solutions, LP protests the decision of the Department of the Navy, Naval Sea Systems Command, not to fund Nautical's phase I proposal under Department of Defense (DOD), Small Business Innovation Research (SBIR) program solicitation No. FY07.1.<sup>1</sup>

We deny the protest.

The solicitation included Navy Topic N07-060, "Shipboard Energy Conservation and Fuel Management Decision Tools." The objective of this topic was to

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<sup>1</sup> 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. Under the program, firms first apply for a 6-month phase I award to test the scientific, technical, and commercial merit and feasibility of a certain concept. If phase I is successful, the firm may be invited to apply for a phase II award to further develop the concept. After the completion of phase II, firms are expected to obtain funding from the private sector and/or non-SBIR government sources to develop the concept into a product for sale in private sector and/or military markets. This protest involves the award of Phase I contracts.

“[d]emonstrate an approach that will provide a quantitative energy conservation and fuel management analysis and decision tool for the purposes of optimizing a ship’s operating profile.” The Navy explains that in light of escalating fuel prices since 2004, the Navy has placed critical importance on developing energy conservation and fuel management analysis tools. Toward this end, the topic sought proposals to develop an automated approach to quantitatively collect, analyze, and present data to enable the ship’s force to utilize energy conservation and fuel management solutions based on dynamic real-time, ship-specific variables. The tool was required to be able to interface with the Integrated Condition Assessment System (ICAS) for the purposes of obtaining machinery system performance data; to identify other ship sensors that could provide ship performance and weather data as the development of the tool progressed; and to be based on the use of open architecture principles. See Agency Report, Tab 2, Topic N07-060, at 76-77.

The solicitation contemplated multiple awards of fixed-priced contracts for Phase I, under which the contractors were required to do the following:

Demonstrate the feasibility of an approach for an automated energy conservation and fuel management tool for shipboard use. Establish validation goals and metrics to analyze the feasibility of the proposed solution(s). Provide a Phase II development approach and schedule that contains discrete milestones for product development.

Id. at 77.

The Navy received 14 proposals in response to the solicitation for this topic. The proposals were evaluated by three evaluators based upon a 100-point scale considering the following evaluation criteria:

- a. The soundness, technical merit, and innovation of the proposed approach and its incremental progress toward topic or subtopic solution [40 points].
- b. The qualifications of the proposed principal/key investigators, supporting staff, and consultants [30 points].
- c. The potential for commercial (Government or private sector) application and the benefits expected to accrue from this commercialization [30 points].

Solicitation at 11.

Nautical’s proposal for this topic, which was based upon its commercially available and patented technology product (FuelTrax) that provides fuel monitoring and

optimization to commercial marine fleets, received the seventh highest score of 64 points.<sup>2</sup> With respect to Nautical, the Navy found as follows:

Proposal was not recommended for award based on overall scoring. Scoring between the three evaluators appeared consistent. Needs much more technical detail in regard to interfacing with ship systems. Fair discussion of FuelTrax (existing product), but lacks details as to fit for Naval ship systems. Lack of significant commitment or partnering with commercialization candidate for a finished product. Also lack of transition plan to Naval ships. Limited Experience with Naval Ship Systems.

Agency Report, Tab 4, Evaluation Summary, at 1. After Nautical's agency-level protest of its failure to receive a Phase I award was denied, this protest to our Office followed.

Nautical challenges the agency's evaluation of its proposal.<sup>3</sup> Where an agency is conducting an SBIR procurement, it has substantial discretion to determine which proposals it will fund. RDAS Corp., B-294848, Dec. 23, 2004, 2004 CPD ¶ 253 at 2. 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. Id. Based on our review of the record, we have no basis to conclude that the agency acted improperly in deciding not to select Nautical's proposal for funding.

Under the first criterion, involving the soundness, technical merit and innovation of the approach, Nautical's proposal received 28 of the 40 possible points. The record shows that the reason that Nautical's proposal to enhance its already commercially available product was not scored more favorably by the Navy was because the evaluators found that developing an energy conservation and fuel management tool for a Navy ship is different than an energy and conservation tool for a commercial vessel. As this record shows, there are unique requirements applicable only to Navy ships. The evaluators found that Nautical's proposal contained limited information regarding how Nautical would modify and integrate its existing system

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<sup>2</sup> The three highest scored proposals for this topic, which had scores of 93 points, 89 points, and 88 points, were recommended for award of Phase I contracts.

<sup>3</sup> Nautical's protest primarily challenged the propriety of the Navy utilizing the SBIR program to obtain a fuel management tool similar to its own product and Nautical's comments reiterated this concern. However, we previously dismissed this aspect of the protest, since this allegation involved an alleged impropriety in the solicitation that should have been protested before the closing time for the receipt of proposals. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (2007).

for use on Navy ships. For example, the Navy explains that in the case of Navy ships energy conservation is not limited to main ship propulsion, but must also address other unique Navy ship requirements, such as electrical generation to support combat systems; that a technical solution, in addition to integration with the ICAS, must account for Navy specific hull, mechanical, and electrical, propulsion and combat system requirements; and that Nautical's proposal "[d]id not demonstrate a strong understanding" of these aspects of Navy ship systems. See Agency Report at 6; Tab 4, Evaluation Summary, at 2. Nautical has provided no reason to question the Navy's evaluation and assessment of its technical approach as lacking necessary detail.

With regard to the second criterion, involving key personnel and staff, Nautical's proposal received 21 of the 30 possible points. Nautical argues that its proposal was unfairly scored for lack of experience with Navy ships because this failed to account for its proposed use, as a consultant, a firm with extensive experience with ICAS, Navy propulsion system design, maintenance and operation, as well as experience working with the Navy and DOD. Here, the record shows that the evaluators recognized that Nautical had several key personnel with strong educational backgrounds and that two key personnel employed by the consultant firm had Navy experience, but found that the remainder of the key personnel had limited experience in Naval ship systems. Agency Report at 9; Agency Report, Tab 4, Evaluation Summary at 2-3. Here too, Nautical has not shown that this evaluation was unreasonable.

Finally, under the third criterion, involving potential for commercialization, Nautical's proposal received 15 of the possible 30 points. Nautical questions this evaluation primarily because it has already marketed and sold its own fuel management tool to the commercial industry. The record evidences that the evaluators noted that the proposal included a good discussion of the commercialization approach for its own product and that Nautical had "demonstrated product commercialization capability in similar markets." See Agency Report, Tab 4, at 2-3. However, Nautical's proposal was found to be devoid of a detailed discussion of follow-on funding from the private sector, DOD prime contractors, non-SBIR DOD programs or other sources concerning commercializing the product to be develop under the topic. The Navy explains that the proposal lacked detail on such things as the amount of additional future investment and anticipated sales revenue, beyond cursory references to potential investor interest in funding future phases and expectation of selling its own existing commercial product. Nautical does not show that its proposal contains this requested information or that its proposal should not have been downgraded under this criterion.

In sum, we find that the record shows that the Navy reasonably evaluated its proposal and reasonably concluded that it should not be funded because it was not among the highest ranked proposals.

The protest is denied.

Gary L. Kepplinger  
General Counsel