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**Comptroller General  
of the United States**

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

# Decision

**Matter of:** Fantastic Data

**File:** B-299083

**Date:** February 5, 2007

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Dale Pitman for the protester.

Frank V. DiNicola, Esq., and Vera Meza, Esq., Department of the Army, for the agency.

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## **DIGEST**

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

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## **DECISION**

Fantastic Data protests the decision of the Department of the Army not to fund Fantastic Data's phase I proposal under Department of Defense (DOD) Small Business Innovation Research (SBIR) program solicitation No. FY06.2.

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. As part of its SBIR program, DOD issues an SBIR solicitation twice a year listing the research topics for which it will consider SBIR program admission.

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. See DOD's SBIR Website, <http://www.acq.osd.mil/sadbu/sbir/overview/index.htm>.

The solicitation included Army Topic A06-110, "Compact, Wideband, Single or Dual Antenna Geolocation." The objective of this topic is to "[d]evelop and demonstrate techniques to perform geolocation [e.g. troop location, target location, battlefield condition related to a specific geographic location] using a compact, wideband, single or dual antenna for applications where array-based Direction Finding (DF) systems are not practical due to size, weight, and cost constraints." Under this topic, the Army seeks to develop techniques to perform geolocation with "small, compact, lightweight, and wideband single or dual antennae" to avoid certain limitations associated with DF systems operating at low frequencies and to take advantage of the "trend toward smaller, portable (hand-held), and affordable DF/geolocation systems." The goal of projects undertaken under this topic is to "reduce the number of antenna elements needed to do geolocation to one or two elements," resulting in an antenna that will have "sufficient gain to support signal intelligence . . . be broadband to reduce the number of antennas needed to cover the frequency range of 20 to 3000 [megahertz] . . . and "also be compact, lightweight, and small enough to be portable by a soldier." Agency Report, Tab B, Topic A06-110, at 1.

With respect to phase I, the topic requires the following:

Develop the antenna designs and identify new approaches (consisting of existing and/or new techniques, methods, and technologies) to perform geolocation with single or dual antenna. Provide a detailed trade study comparing all considered antenna configurations and geolocation techniques and reason for final selection. Demonstrate the feasibility of the selected technique. The Very High Frequency (VHF)/Ultra High Frequency (UHF) bands are of primary interest for Phase I.

Id.

For phase I, the solicitation contemplated multiple awards of fixed-priced contracts to those proposals offering the best-value considering three evaluation factors listed in descending order of importance as follows:

- a. The soundness, technical merit, and innovation of the proposed approach and its incremental progress toward topic or subtopic solution.
- b. The qualifications of the proposed principal/key investigators, supporting staff, and consultants. Qualifications include not only the ability to perform the research and development but also the ability to commercialize the results.

c. The potential for commercial (Government or private sector) application and the benefits expected to accrue from this commercialization as assessed utilizing the criteria in Section 4.4.<sup>1</sup>

Solicitation at 11.

The Army received 15 proposals, including Fantastic Data's, for this topic. The evaluation was conducted in three "tiers." First, a 2-member technical evaluation team that possessed scientific and technical knowledge in the topic area performed a technical assessment (Tier 1) and forwarded the "best" proposals for a second level of review (Tier 2). Here, three of the proposals, not including Fantastic Data's, were forwarded for Tier 2 evaluation, and ultimately only one proposal was selected for funding (Tier 3).

The evaluators found weaknesses (as well as strengths) in Fantastic Data's proposal under each of the three technical evaluation factors, which resulted in its proposal receiving the tenth highest ranked score and not being forwarded for Tier 2 evaluation. For example, under the first factor, the evaluators noted that Fantastic Data's technical approach was based upon moving handheld devices after initially identifying the signal to determine the optimum point to refine the line of bearing, which the evaluators concluded might limit soldier mobility and expose soldiers to harm. Further, the evaluators found that Fantastic Data had proposed no "specific approach to the antenna part of the project" and did not specify what kind of antenna it proposed to use, and that its "proposed system, although technically sound, was too complicated because it relied upon "the coordination of other systems." Under the second factor, the evaluators found that Fantastic Data's personnel lacked "substantial" antenna development, signal intelligence, and geolocation algorithm backgrounds. Under the third factor, the evaluators found that the proposal presented an unclear plan for commercialization, and that Fantastic Data had two previous SBIR programs that had ended at phase II, which was no "success story." See Agency Report, Tab D, Evaluation Report, at 1-2.

Fantastic Data challenges the validity of each of the weaknesses that the evaluators attributed to its proposal. 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 Fantastic Data's proposal for funding.

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<sup>1</sup> Paragraph 4.4 provided among other things that commercial potential would be assessed based on the proposer's commercialization strategy and the proposer's record of commercializing its prior SBIR projects. Solicitation at 12.

With regard to the first factor, Fantastic Data argues that the agency incorrectly found that Fantastic Data's failure to specify a proposed solution to the antenna was a weakness, given Fantastic Data's proposal of an approach of using antenna motion to synthesize a large antenna aperture from a small, handheld antenna, and contends that specifying a particular antenna in its proposal would have been inappropriate, given the phase I requirement that the contractor perform a trade study prior to selecting an antenna. The Army explains that attributing a weakness to Fantastic Data's proposal because it neglected to propose a more specific approach to the antenna part of the project was consistent with the evaluation factor, since among other things the agency was evaluating whether a proposal had demonstrated incremental progress towards topic solution. In fact, the goal of the topic was to "develop and demonstrate" geolocation using a "compact, wideband single or dual antenna" and during phase I the contract was to "develop the antenna designs." See Agency Report, Tab B, Topic A06-110, at 1. The protester's contention that selecting an antenna solution was predicated on first doing a trade study is too narrow of a reading of the phase I requirements, which included both developing antenna designs, and providing a trade study comparing all the antenna configurations that were considered and stating the reasons why the final design was selected. Although we agree that under the solicitation Fantastic Data did not necessarily have to propose a specific solution to the antenna aspect of the project, the agency could consider its failure to identify a specific antenna approach to be a weakness, given that the evaluation factor considered "the soundness, technical merit, and innovation of the proposed approach and its incremental progress toward topic or subtopic solution." See Solicitation at 11. An offeror who had not yet provided details of its specific antenna approach could reasonably be found to have made less incremental progress toward the topic solution.

Fantastic Data also disputes the agency's conclusion that soldiers would be mobility limited or placed in harm under its technical approach. In this regard, the protester maintains that the Army has misread the proposal, which properly should be read as explaining how a soldier could move to improve geolocation after finding a signal, and that no direction finder can localize an emitter without either movement or coordination with one or more other direction finders. However, the Army reasonably explains that it was justified to conclude that Fantastic Data's approach was a weakness because the firm's proposal did not address how the reception of the signal would be affected if the soldier were not in the optimal position, nor what would happen if the soldier (due to war related or other circumstances) was unable to reposition to an optimum location. Fantastic Data's mere disagreement expressed here does not provide a legal basis for us to overturn the evaluation.

With regard to the second evaluation factor, Fantastic Data contends that the Army misconstrued the qualifications of its key personnel, asserting that the agency improperly downgraded the proposal on the basis of the company's experience rather than the experience of the key personnel, who have "experience spanning the gamut of communications systems from networking to hardware design," and that its

proposed key investigator is a radio frequency (RF) engineer who has developed numerous innovative RF devices for a variety of uses including communications, signal intelligence, and geolocation. Protest at 3. However, the record shows that the evaluators credited the proposal with a strength because Fantastic Data's investigators possessed significant experience in wireless communications, satellite communications, and computer networking. The evaluators nevertheless assigned a weakness because this experience was not considered as desirable as engineers with specific experience in antenna design, signal intelligence, and geolocation algorithms. Based on our review, we find no reason to question the Army's evaluation that the key personnel did not have this more desirable specific experience.

Regarding the third factor, Fantastic Data disputes the Army's assignment of a weakness because the evaluators found that Fantastic Data only had two previous SBIR programs that ended at phase II, with no success story. The record confirms that the agency's evaluation was based on the fact that Fantastic Data has two phase II awards that have not yet gone to phase III, and, therefore, the agency could assign its proposal a weakness for this reason. However, the record also shows the evaluators attributed various strengths to Fantastic Data's proposal because it demonstrated a "good track record for transitioning Phase I SBIR's to a Phase II" and because "the offeror has experience transitioning technology in the form of a commercial venture." See Agency Report, Tab D, Evaluation at 1-2. Although the protester disagrees, the agency evaluation under this factor was reasonable.

In sum, we find that the record shows that under each factor the Army reasonably evaluated Fantastic Data's proposal.

The protest is denied.

Gary L. Kepplinger  
General Counsel