

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-183724

DATE: May 18, 1976

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MATTER OF: Astro Color, Inc.

DIGEST:

While protester charges bias in source selection due to alleged relationship between key employee of awardee and agency evaluation team, record indicates that agency selection resulted from impartial evaluation of proposals. Fact that employee in question was known by members of evaluation team because of his employment with prior contractor does not establish that agency evaluators were biased.

The National Aeronautics and Space Administration (NASA) issued request for proposals (RFP) 8-3-5-14-00037 for providing various photographic printing services to the Marshall Space Flight Center, Alabama. Astro Color, Incorporated, an offeror under this solicitation, protests that the award to Industrial Photo Services resulted from the bias of the evaluation team.

The RFP sought the furnishing of photographic prints of various numbers, sizes, and types from Government-furnished photographic negatives, transparencies, and other copy material. Under the scheme contained in the solicitation, proposals were to be evaluated "by responsible technical and procurement personnel" familiar with the procurement. This team of personnel would then "advise the contracting officer as to the proposers' apparent capabilities" as reflected in the proposals. Areas of evaluation included the proposer's ability to meet the work requirements and the RFP's pick-up and delivery service needs, an appraisal of the proposer's price proposal and its past performance history, and an analysis of the proposer's cost and pricing data. Each proposer was also to include a list of the equipment it intended to use.

Offers were received from Astro Color, Firestone Photographics, Industrial Photo, and Superior Technical Services. Firestone was not considered to be in the competitive range after initial evaluation because its plant facilities were more than 500 miles beyond the 40-mile radius required by the FRP to meet emergency delivery requirements. After obtaining additional information from the three

offerors (and after consideration of best and final offers) the technical committee recommended award to Industrial. A summary of the technical evaluation of the three proposals is as follows:

Technical Evaluation (100 Points Total)

	<u>Initial</u>	<u>Final</u>
Industrial Photo Services	92	94
Superior Technical Services	60	80
Astro Color, Inc.	28	27

However, the contracting officer determined that further negotiations should be conducted with both Industrial and Superior, the offerors within the competitive range. Following these negotiations award was made to Industrial.

Astro Color contends that the procurement evaluation team was improperly biased, and that the evaluation it forwarded to the contracting office was a product of that bias. NASA denies these allegations, and contends that the evaluation was objectively and properly performed.

The evaluation team members were selected from the Photographic Division of the NASA Marshall Space Flight Center, the requiring agency, and NASA states that they were "knowledgeable of the Center's photographic requirements and [were] considered capable of evaluating proposals relative to photographic services." The team was appointed by the Head of the Center's Photographic Division.

Astro Color's charge of bias stems from the alleged relationship between the team and the Division Manager of Industrial. The protester states that Industrial's Division Manager was formerly the supervisor of Albrook Enterprises, the firm which previously performed these services. Astro Color contends that the relationship between Industrial's Division Manager and the team, developed during the prior contract, tainted the team's evaluation. As evidence of this impropriety, Astro Color alleges that Industrial was a recently formed division of Public Systems, Incorporated (PSI), that Industrial-PSI had little or no photographic expertise other than possessed by its Division Manager, and that Industrial-PSI may have lacked the required equipment to perform the contract.

Astro Color submits that, on the other hand, it has extensive experience in this area, that it possessed the necessary equipment for this contract, that it successfully passed its "preaward survey", and that it could have assured adequate quality control. Thus,

Astro Color argues that the difference between its final technical evaluation of 27 and Industrial's rating of 94 was due in large part to bias. Furthermore, it contends that Superior, which was rated 80, did not have the necessary expertise or facilities, and that its high rating may also have been the result of bias.

In requesting that this Office overturn NASA's determination, Astro Color has not presented explicit evidence that the evaluation was the product of bias. Rather, it implies impropriety from the alleged relationship of Industrial's Division Manager with the members of the evaluation team during the approximate three year period that the predecessor contractor performed these services.

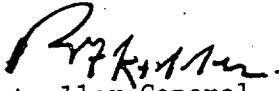
Astro Color also points out that the President and Vice-President of Industrial-PSI occupy State or municipal positions which consume their time, that neither man has a background in photography, and that PSI had no photographic function until Industrial was formed. However, the record indicates that the Industrial-PSI President and Vice-President were proposed for their managerial, not photographic, experience. Also, the President and Vice-President did serve, respectively, with the State Legislature and the local Board of Education. However, NASA points out that these are part time functions and should not interfere with the performance of their duties with Industrial-PSI. Insofar as PSI's experience is concerned, NASA reports that PSI acquired much of the facilities and equipment, and some of the personnel, of the prior contractor.

A review of that proposal indicates that in the judgment of the evaluation panel Industrial supplied in-depth material concerning in part key personnel, staffing plan, and quality control. This material was considered by NASA to represent a high degree of technical competency, and we find no reason to object to this determination. Conversely, Astro Color's proposal was found by the panel to be sketchy and incomplete in such areas as quality control, key personnel resumes, and staffing plan. Also, Astro Color's proposal regarding availability of technicians was tentative and speculative, and essentially stated that employees would be added and trained as needed. While Astro Color's equipment was highly rated by NASA, the Evaluation Committee's site visit (not a preaward survey) also disclosed doubts about the adequacy of Astro Color's facility for this contract. Moreover, NASA denies the existence of any special relationship between the Division Manager and the NASA evaluators, commenting that the Division Manager became known by the NASA employees "in the same manner as any contractor employee would when he has contact with the Government he serves." On these facts we see no reason to conclude that the evaluation was biased.

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While Astro Color has alleged bias in the selection of Industrial, its allegations are not supported by the record. Rather it appears that NASA's source selection resulted from an impartial evaluation of the proposals. Accordingly, we find no reason to object to the contract awarded to Industrial. In view of this conclusion, Astro Color's allegation of NASA bias towards Superior need not be discussed.

Based on the above, this protest is denied.


Deputy Comptroller General
of the United States