

DECISION

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

KRAITZER
27677

FILE: B-211180

DATE: March 13, 1984

MATTER OF: Ionics Incorporated

DIGEST:

1. Substitution of offeror after the receipt of best and final offers is permitted where the new offeror has purchased the entire portion of the initial offeror's business that is embraced by the proposal.
2. The determination of the relative merits of technical proposals is the procuring agency's responsibility, and GAO will not disturb such a determination unless shown to lack a reasonable basis or to violate procurement statutes or regulations.
3. Contention that a proposal should have been rejected for its failure to meet a requirement to eliminate the use of expendable reagents from the proposed organic carbon monitoring system is without merit where the request for proposals clearly made the elimination a goal rather than a firm requirement and one of two approaches set forth in the proposal did not require expendable reagents.
4. GAO does not find unreasonable an agency's judgment that protester's proposal did not fully satisfy a requirement to propose two separate approaches to the problem where the proposed approaches were not as dissimilar as approaches proposed by the awardee and where only one approach was fully described and developed in the protester's proposal.

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5. Agency's judgment that protester's approach to developing sophisticated technical hardware presents an unnecessarily high-risk research and development effort will not be questioned where protester did not attempt to establish the technical feasibility of the approach within the confines of its proposal.
6. Agency determination that protester's proposal was lacking with regard to the number of manhours proposed is clearly supported by the record where the other offerors in the technical range proposed more than twice as many manhours.
7. There is no requirement that a procuring agency inspect the facilities or interview the employees of an offeror responding to a request for proposals.
8. Award to a technically superior offeror with a 43 percent higher proposed cost than protester will not be questioned where a cost realism analysis, reasonable on its face and not objected to by the protester, indicates that the technically superior offer will actually cost the same or less than the protester's.
9. No statute or regulation sanctions the exclusion of former government employees from obtaining government contracts.

Ionics Incorporated protests the award of a contract to Astro Resources International Corporation under request for proposals (RFP) No. 9-BC72-6-2-58P issued by the National Aeronautics and Space Administration (NASA) for an organic content monitor. Ionics contends that NASA violated the anti-assignment statutes by awarding a contract to a firm other than the one that submitted the initial proposal. Ionics disputes NASA's determination that Astro's proposal was technically superior to Ionics' on the

basis that NASA, among other things, overlooked Astro's weaknesses and deviations from the statement of work, misunderstood Ionics proposal, misjudged the relative experience and capabilities of the firms and failed to inspect Ionics' premises and staff. Ionics also contends that the award was improper because its proposal would be less costly than Astro's. Finally, Ionics alleges that the award may be tainted by a conflict of interest.

We deny the protest.

The RFP contemplates a cost-plus-a-fixed fee contract for the development, design, fabrication, and testing of a breadboard system for an organic content monitor. The objective of the contract is to demonstrate the suitability of the organic content monitor for analyzing water recovered from crew wastes on long duration spacecraft missions. The system is to provide fast, reliable monitoring necessary to prevent contamination of water supplies that could endanger the crew or damage spacecraft systems.

The RFP requires offerors to propose at least two candidate technical approaches to monitoring organic content in a spacecraft environment. The successful offeror is to conduct feasibility tests on the two competing approaches to determine, in consonance with NASA, which approach had more promise to result in an operational system. The more promising approach would then be implemented in the design of the breadboard.

The RFP sets forth the following criteria and subcriteria for the evaluation of proposals:

1. Mission Suitability Factors
 - Excellence of Proposed Approach
 - Understanding the Problem
 - Implementation of Proposed Approach
 - Key Personnel and Facilities.
2. Cost/Price Factors
3. Experience and Past Performance Factors
4. Other Factors

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The RFP advises that only the subcriteria set forth as mission suitability factors would be weighted and scored.

Following the initial technical evaluation, two of the five firms that submitted proposals were excluded from the technical range. NASA conducted discussions with, and received best and final offers from, the three remaining firms, Astro, Ionics and Life Systems, Inc. The final evaluation yielded the following scores and adjectival ratings:

	<u>Astro</u>	<u>Life Systems</u>	<u>Ionics</u>
Mission Suitability	900.9	705.5	615.4
Experience	Excellent	Good	Good
Past Performance	Good	Very good	Good
Other Factors	Satisfactory	Satisfactory	Satisfactory

NASA concluded that all things considered, Astro's proposal was technically superior to the other proposals. Additionally, although Ionics submitted the lowest proposed cost, a cost realism analysis conducted by NASA demonstrated that Astro's proposal would be no more costly than the other proposals, and perhaps less costly. Based upon the perceived technical superiority and the equal or possibly lower evaluated costs of its proposal, NASA awarded the contract to Astro.

SUBSTITUTION OF OFFERORS

Ionics first contends that NASA improperly awarded the contract to a firm that did not submit an offer in response to the RFP. Ionics alleges that Astro Resources Corporation, an entity incorporated in the state of Texas in 1974, submitted the proposal and best and final offer that formed the basis for the award, but NASA awarded the contract to Astro Resources International Corporation, an entity incorporated in Texas in December 1982. Ionics argues that NASA permitted the substitution of offerors in violation of the anti-assignment statutes.

The record indicates that the proposal selected for award was in fact submitted by Astro Resources Corporation. Shortly after the selection, NASA received a letter directing it to:

"execute any documents in the name of ASTRO RESOURCES INTERNATIONAL CORPORATION rather than: ASTRO RESOURCES CORPORATION.

"Our business began operating under this name in December 1982. All personnel, facilities, etc. remain as previously proposed and only a name change need be effected."

NASA regarded this letter as indicating merely that the offeror had changed its name and consequently it awarded the contract in the name "Astro Resources International Corporation." It was not until after the award of the contract that NASA became aware that Astro Resources Corporation and Astro Resources International Corporation were separate and distinct entities.

The record indicates that prior to the award of the contract, Astro Resources Corporation sold all of its assets, except for its fixed assets and certain obsolete equipment, to Astro Resources International Corporation. On the basis of this sale of assets, NASA accepted the latter corporation as the successor in interest to the former corporation.

The transfer or assignment of rights and obligations arising out of proposals is permissible only where the transfer is to a legal entity which is the complete successor in interest to the offeror by virtue of merger, corporate reorganization, the sale of an entire business, or the sale of an entire portion of a business embraced by the proposal. Numax Electronics, Inc., 54 Comp. Gen. 580 (1975), 75-1 CPD 21. The rationale for our position is analogous to that behind the anti-assignment statutes, 41 U.S.C. § 15 (1976) and 31 U.S.C. § 3727 (1982) (formerly 31 U.S.C. § 203), which prohibit the assignment of government contracts and claims in order to:

" . . . secure to the government the personal attention and services of the contractor; to render him liable to punishment for fraud or neglect of duty; and to prevent parties from acquiring more speculative interests . . . and from thereafter selling the contracts at a profit to bona fide bidders and contractors"

Thompson v. Commissioner of Internal Revenue, 205 F. 2d 73, 76 (3rd Cir. 1953).

In this case, Astro Resources Corporation sold the entire portion of the business embraced by the proposal to Astro Resources International Corporation. Although Astro Resources Corporation continues to exist as a corporate entity, it no longer engages in business activities. Clearly, Astro Resources International is the successor in interest to Astro Resources, and consequently the policies underlying the anti-assignment statutes are not offended by the transfer of the rights created by the offer.

It is obvious, however, that the interests of the government dictate that the parties involved accurately and timely notify the contracting agency of the transfer of an offer in order to enable the agency to determine whether the substituted offeror is in fact a successor in interest and to ensure that any preaward surveys are conducted with respect to the appropriate party.

As noted, the parties did not inform NASA of the transfer, and in fact affirmatively, though inadvertently, misled NASA. There is no indication, however, that Astro benefited from the lapse, and NASA subsequently ratified the transfer. Additionally, there is no suggestion that the transfer affected the preaward survey. Under the circumstances, we see no reason to object to the award on the basis proffered by Ionics.

TECHNICAL EVALUATION

Ionics questions NASA's determination that Astro's proposal was technically superior on the basis that the evaluation was inadequate and inconsistent with the stated

evaluation criteria. Ionics believes that NASA did not take into account Astro's weaknesses and deviations from the statement of work and that NASA did not fully understand Ionics innovative approaches to the problem. Ionics also questions NASA's judgment concerning Ionics' implementation of its approach and concerning the relative merits of the key personnel, facilities, experience and financial capabilities of the two firms.

It is neither our function nor our practice to conduct a de novo review of technical proposals and make an independent determination of their relative technical merit. It is the function of the procuring agency to exercise informed judgment and discretion in the evaluation of proposals. Our review is limited to examining whether the agency's evaluation was fair and reasonable and consistent with the stated evaluation criteria. We will question contracting officials' determinations concerning the technical merits of proposals only upon a clear showing of unreasonableness, abuse of discretion or violation of procurement statutes or regulations. Reliability Sciences, Incorporated, B-205754.2, June 7, 1983, 83-1 CPD 612. Such a showing particularly is necessary where the agency is procuring sophisticated technical hardware. Coherent Laser Systems, Inc., B-204701, June 2, 1982, 82-1 CPD 517.

Expendable Reagents

Ionics first questions the technical evaluation on the basis that NASA evaluators did not adequately consider the fact that one of the techniques proposed by Astro employs "expendable reagents." Ionics contends that the use of expendable reagents is prohibited by the RFP and points out that, in contrast to Astro's proposed approaches, neither of its approaches relies on expendable reagents.

Since expendable reagents, by definition, are consumed in the monitoring process, quantities of them would have to be stored in the spacecraft, adding weight to the payload and occupying valuable space. Optimally, NASA would prefer to develop a system that does not use expendable reagents, but NASA is not certain, given the state of the art, that such a system is feasible. Consequently, the RFP makes

clear that the elimination of expendable reagents is a goal, not a firm requirement as Ionics suggests.

Significantly, the more technically innovative of Astro's proposed approaches does not involve expendable reagents and although the other approach does, Astro also proposed to make attempts to eliminate or reduce their use. Given the doubt concerning whether a system without expendable reagents is feasible, it would appear that Astro's proposal, providing for the possible development of a system not using expendable reagents but, if this proves to be impracticable, further providing a more proven technique as a fallback, could properly be viewed as it was by NASA. We therefore cannot agree with Ionics that NASA acted unreasonably in giving Astro high technical ratings despite the use of expendable reagents.

Novelty and Innovation

Ionics contends that NASA failed to recognize as a weakness the fact that Ionics' approach does not meet the requirement stated in the RFP for a "more novel and imaginative technique than is currently available." Ionics asserts that rather than being innovative and novel, one of the approaches proposed by Astro was described in part by reference to technical brochures of commercial products and other documents relating to Astro's current product line.

Again, we believe that Ionics has misinterpreted the RFP. The phrase "novel and imaginative" does not even appear in the RFP and we are unable to ascertain what RFP provisions led Ionics to its conclusion. In our view, the RFP neither requires novel and imaginative techniques, nor precludes the incorporation of currently available commercial products. The RFP sets forth several monitoring techniques, some commercially available, and specifically states that these techniques may be used as candidate techniques. This clearly indicates that any technique or combination of techniques, whether innovative or not, that meets the stated needs of the agency is acceptable. Ionics' contention concerning a novelty and innovation requirement is without foundation.

Two Approaches

As mentioned, the RFP requires the submission of at least two candidate approaches to monitoring. Our review of evaluators' worksheets indicates that Ionics' proposal was significantly downgraded as a result of the evaluators' concern that the two approaches were not sufficiently disparate and their observation that the second technique was not adequately described or developed. This matter constituted one of the predominant weaknesses cited in the final source selection statement.

Ionics contends that NASA erred in these findings, asserting that its proposal sets forth two very different methods. As Ionics now explains it, its preferred method is to (1) determine the background level carbon dioxide of a sample stream of water by measuring its conductivity; (2) oxidize the carbon in the sample stream in the presence of a porous catalyst, with the aid of ultraviolet irradiation, using excess atomic or molecular oxygen electrochemically generated at the surface of the catalyst; and (3) measure the carbon dioxide produced by determining the net increase in conductivity of the stream. The alternate technique is to (1) purge the carbon dioxide from the sample stream; (2) oxidize the carbon in the presence of a porous catalyst, with the aid of ultraviolet irradiation, using bulk oxygen generated externally; and (3) measure the amount of carbon dioxide produced with an infrared detector. Thus, the two approaches differ in the source of the oxygen used to oxidize the carbon and in the methodology for measuring the carbon dioxide produced.

Even though we agree with Ionics that its proposal does set forth two different approaches, we believe NASA's criticism and downgrading of the proposal was reasonable. NASA requested that two approaches be proposed and tested in order to increase the probability that the contract effort would produce a breadboard with operational promise. The central aspect of Ionics' approaches is the novel method of oxidation which uses ultraviolet light and

a porous catalyst.¹ As will be discussed below, NASA genuinely doubts whether this oxidation technique is feasible, and Ionics did not dispel that doubt in its proposal. Thus, in a fundamental sense, the approaches proposed by Ionics did not provide NASA with two distinct and viable options for developing a breadboard: if the ultra-violet, porous catalyst oxidation technique proves unworkable after feasibility testing, both approaches will have failed and the contractual effort will have borne no fruit.

Added to these considerations is the fact that Ionics' proposal focuses on the preferred approach to the virtual exclusion of the other approach. The initial technical proposal devoted only one paragraph to the alternate approach, causing NASA to request a more detailed description in the course of discussions. Ionics' response to the request was brief and lacking in detail. In contrast to the preferred approach, Ionics' proposal supplied neither a complete description nor a flow diagram of the alternate system. As a result, the evaluators concluded that Ionics did not provide an adequate description of the alternate technique to permit a full evaluation. Moreover, Ionics' discussion of the preferred system to the exclusion of the

¹Ionics contends that there is a significant difference in the oxidation techniques of the respective approaches in that in the preferred approach, atomic oxygen would be produced at the location of the catalyst and in the alternative approach, bulk oxygen produced in a remote generator would be used. As NASA points out, however, Ionics did not indicate in its proposal that one approach would use atomic and one bulk oxygen. If the type of oxygen or manner of generating oxygen impacts upon the functioning or feasibility of the system, it is Ionics' responsibility to so establish in its proposal, or run the risk of losing the competition. See Blurton, Banks & Associates, B-205865, August 10, 1982, 82-2 CPD 121.

alternate system spilled over into the proposal's development of the feasibility test program, the project schedule and other aspects of the proposal. Under the circumstances, we find reasonable NASA's determination that Ionics' proposal was lacking with regard to the "two-approach" requirement and its consequent downgrading of the proposal.

Feasibility of Proposed Approaches

NASA concluded that the ultraviolet, porous catalyst oxidation technique incorporated in Ionics' approaches constituted an unnecessarily high-risk research and development endeavor. Ionics disputes this finding and contends that NASA should have known that at least its preferred technique was feasible because it was described in the RFP and is the subject of a patent which was assigned to NASA and cited in the RFP. Ionics believes it was fundamentally inconsistent for NASA to question the feasibility of Ionics' technique when that technique is referred to in the RFP as feasible.

We reject this argument. First, Ionics' proposal did not even mention the patent upon which Ionics now relies to establish feasibility. Additionally, the RFP referred to this patent, as well as other techniques, merely to provide background information concerning developments in organic carbon measurement. There were no indications that any or all techniques necessarily were feasible for space missions. Moreover, NASA discerns significant differences between the system described by the patent (the feasibility of which NASA is not willing to concede) and the approach described in Ionics' proposal. For example, the patent does not rely upon a porous catalyst as does Ionics' technique, and, unlike Ionics' configuration, the patent utilizes a high purity water loop to enhance measurement sensitivity. Thus, even if the method described by the patent was a proven technique, since Ionics' oxidation methodology and the patent differ in significant ways, the feasibility of the Ionics' methodology would not be established.

Additionally, Ionics did not attempt to establish the feasibility of the oxidation technique in its proposal. As NASA points out, Ionics' proposal contained no references to test data or theoretical discussion demonstrating how

the catalyst would aid in the oxidation of the carbon. We emphasize that it is the sole responsibility of the offeror to establish within the proposal that it will meet the requirements stated in the RFP. See Numax Electronics Incorporated, B-210266, May 3, 1983, 83-1 CPD 470. Since the similarities with the patent did not establish feasibility and Ionics made no attempt in the proposal to do so, we cannot say that NASA's findings on the feasibility of Ionics' approaches were clearly unreasonable or arbitrary.

Manhours

The subcriterion "Implementation of Proposed Approach" consists in large part of an evaluation of the "allotment manhours, skill mixes and numbers of persons assigned to accomplish specific tasks." NASA found Ionics lacking concerning this requirement in that the total number of manhours proposed was substantially less than that proposed by the other offerors, and the proposal did not disclose the number of technician hours Ionics proposed to supply. Accordingly, NASA gave Ionics' proposal a score of 106 (out of a possible 175) in contrast to Astro's score of 154.4.

Ionics complains that the scoring was unreasonable inasmuch as Ionics proposed 4,360 direct manhours and 2,150 indirect manhours which in Ionics' view is sufficient to accomplish the proposed tasks.

We are unable to square Ionics' assertion on the number of manhours proposed with the information actually contained in the proposal. The proposal contains no mention of 4,360 direct and 2,150 indirect manhours. Moreover, both the manning charts, which were to contain a compilation of all manhours, and the contract pricing proposal indicate a total of 2,807 manhours. This compares to 11,867 total manhours offered by Astro and 6,177 offered by Life Systems Inc. Although Ionics' best and final offer indicates (in response to a question NASA posed concerning the insufficiency of technician manhours) that Ionics and a subcontractor planned to provide additional technician hours, Ionics did not specify the number of such hours as is clearly required by the RFP. We believe the information contained in Ionics' proposal supports the relatively low point score received by Ionics.

Key Personnel and Facilities

Ionics received a rating of 102 (out of 125) for the "Key Personnel and Facilities" subcriterion, compared with a rating of 111 received by Astro. Ionics contends that the scoring was incorrect because Ionics' facilities are larger and its staff is more extensive than Astro's, and because NASA did not inspect its facilities and interview its personnel before making its judgment. Ionics also contends that NASA did not take into consideration the alleged censure by NASA of Astro Ecology Corporation, with which the chief executive and project manager of Astro was then associated, for improperly advertising a product as having been developed by NASA engineers and project directors.

These contentions are without merit. First, there is no requirement to conduct site investigations in connection with proposal evaluations. Rather, offerors are required to demonstrate the excellence of personnel and adequacy of facilities within the context of their proposals. Andover Data Services, Inc., B-209243, May 2, 1983, 83-1 CPD 465.

Ionics' assertion that its facilities are larger in itself does not provide a basis upon which to question NASA's judgment. Moreover, even if the size of the facilities were an important factor, Ionics did not indicate the size of its facilities in its proposal. Rather, Ionics' proposal, like Astro's, merely listed the equipment it planned to use to perform the contract and on this basis NASA found the facilities of both firms to be adequate as indicated by the nearly equal point scores (21.13 and 20.69 out of 25) for the element "facilities and equipment."

Concerning key personnel, which accounted for most of the difference in scores for this subcriterion, we find that Ionics' assertion that it has a more extensive staff is simply not relevant. The focus of the inquiry is whether the five employees designated by Ionics and the three employees designated by Astro as key employees are relatively more qualified to perform the contract, not whether one firm has a greater number of other staffers available. We have closely examined the resumes of the key personnel and it would appear that both management teams

are extremely well-qualified for the assignment. Although reasonable persons could differ over which firm had an advantage in key personnel, we cannot say that in rating Astro slightly higher NASA exercised its informed and expert judgment in an arbitrary manner.

Last, Ionics' allegation concerning censure is inaccurate. NASA records indicate that Astro Ecology has never been censured by NASA, but that the incident to which Ionics refers concerns advertisements in which a German corporation, Kontron Technik, advertised certain Astro Ecology equipment by tying the product to NASA. NASA cautioned Kontron that the representation violated American law, but concluded Astro Ecology had neither a relationship with nor control over Kontron. Obviously, Ionics has confused the facts somewhat and the incident has no direct bearing on the evaluation of Astro's proposal.

Financial Capability, Experience and Past Performance

Astro received an adjectival rating of satisfactory for financial capability, excellent for experience and good for past performance. Ionics argues that these ratings are suspect. Ionics alleges that Astro was very recently reorganized from its corporate predecessor, Astro Ecology Corporation. The latter firm, according to the protester, is now in bankruptcy, indicating that Astro lacks the financial capability to perform the contract. Additionally, the firm has no contract experience in the field of organic carbon monitoring.

Ionics' allegations are clearly unfounded. Astro Ecology was incorporated as a closely held corporation in 1971 to market high temperature combustion systems. In 1982, the firm filed for bankruptcy as a direct result of the death of one of the two major shareholders. Although its management for some time apparently interlocked with Astro Ecology's, Astro Resources is a separate and distinct enterprise that was incorporated in 1974 to produce pollution control and content monitors. The record indicates that it has successfully performed numerous organic content monitoring contracts and is in sound financial condition. As noted, its management and employees continue to do

business as Astro Resources International. Obviously, Ionics is incorrect about the relationship between Astro Ecology and Astro Resources, and its allegations, though perhaps accurate with respect to Astro Ecology, are not relevant to the Astro Resources Corporation and its immediate successor, Astro Resources International Corporation.

COST REALISM ANALYSIS

Ionics next questions the validity of the award on the basis that it will cost the government 43 percent more to contract with Astro than if it had contracted with Ionics. Ionics contends that NASA has not justified the award at a higher cost.

This contention is without merit.

The RFP designates cost as an evaluation criterion, but does not assign it a weight. The RFP also discloses that:

"Proposed costs will be analyzed for realism, cost of doing business, features that would cause a given proposal to cost more or less than others, and all normal cost analysis that would help the selection official determine the relative significance of cost in making his selection."

It is true that Ionics' proposed cost is approximately 43 percent lower than Astro's proposed cost. NASA conducted a realism analysis, however, which revealed that the government could reasonably expect the costs of the two proposals to be approximately equal and that if anything, Astro's costs are likely to be lower than Ionics'. Our Office has often pointed out the importance of analyzing proposed costs to determine whether they are realistic predictions, since, regardless of the offerors' proposed costs, the government will be obligated under a cost-reimbursement contract to reimburse to the contractor for its allowable costs. See generally Dynalectron Corporation, et al., 54 Comp. Gen. 562 (1975), 75-1 CPD 17, affirmed 54 Comp. Gen. 1009 (1975), 75-1 CPD 341. The conduct of a cost realism analysis is a function of the contracting agency, whose determinations will not be

disturbed by our Office unless they clearly lack a reasonable basis. Management Services Incorporated, 55 Comp. Gen. 715 (1976), 76-1 CPD 74; Moshman Associates, Inc., B-192008, January 16, 1979, 79-1 CPD 23.

NASA's cost realism analysis appears to be reasonable on its face, and Ionics, despite an opportunity to comment on the analysis, has not offered a single reason why the analysis was inaccurate or unreasonable. Since there is no evident basis upon which to question the analysis, we will accept NASA's conclusion that contracting with Astro would be as costly as or less costly than contracting with Ionics. Therefore it was not necessary, as Ionics arguments would suggest, for NASA to make a determination concerning the trade-off between technical and cost considerations.

CONFLICT OF INTEREST

Finally, Ionics alleges that the award may be tainted by a possible conflict of interest. The chief executive and project manager of Astro previously held important positions at NASA and Ionics speculates that he may be personally acquainted with the source selection officials. In this regard, Ionics cites as potentially relevant to our decision CACI, Inc.-Federal v. United States, 1 Cl. Ct. 352 (1983), in which the Claims Court enjoined an award to a firm a principal of which was a former government employee who had a professional and personal relationship with members of the technical evaluation board.

Ionics' allegation does not provide a basis upon which to question the award. There is no statute or regulation which sanctions the exclusion of retired or former government employees from obtaining government contracts. See Edward R. Jereb, 60 Comp. Gen. 298 (1981), 81-1 CPD 178.

Although 18 U.S.C. § 207 (1982) imposes criminal penalties on former government employees who represent anyone but the government on specific matters in which the former employee participated or over which he had responsibility as an employee, we see no basis to suggest that the statute should apply in this case. In any event, the interpretation and enforcement of this statute is generally the responsibility of the Department of Justice, not this Office. Bray Studios, Inc., B-207723, B-207746, October 27, 1982, 82-2 CPD 373.

With respect to the Claims Court case Ionics cites, we point out that Ionics has not alleged facts which even remotely resemble the facts upon which the decision was based. In any event, the Claims Court decision was recently reversed on the basis that the mere potential for improprieties is not a basis upon which to enjoin the award of a contract. CACI, Inc.-Federal v. United States, 719 F.2d 1567 (Fed. Cir. 1983).

CONCLUSION

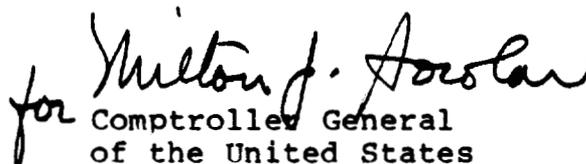
In summary, the transfer of the selected proposal to the corporate successor of the original offeror was proper. Although NASA was not apprised of the transfer prior to award, no harm to the government or benefit to the awardee was created by the lapse.

Concerning the technical evaluation, we conclude that NASA did not overlook weaknesses or deviations in Astro's proposal. We find that NASA's criticisms of Ionics' proposal for not adequately setting forth two distinct approaches, for lacking promise in terms of feasibility and for proposing an inadequate number of manhours are reasonable and supported by the record. Ionics failed to present a basis upon which to question NASA's judgments on key personnel and facilities, and Ionics' contentions regarding Astro's financial capability, experience and past performance flow from Ionics' confusion concerning various corporate entities. In sum, Ionics failed to sustain its burden of demonstrating that the technical evaluation was unreasonable.

Questions raised by Ionics concerning award to a higher cost offeror are rendered irrelevant by a cost realism analysis, which Ionics did not challenge, that demonstrates that Astro's costs are likely to be the same or lower than Ionics'.

Last, Ionics failed to establish a conflict of interest from the fact that Astro's project manager is a former NASA employee.

We deny the protest.

for 
Comptroller General
of the United States