

PLI 24540

**DECISION**



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

**FILE:** B-208009

**DATE:** March 17, 1983

**MATTER OF:** Information Network Systems

**DIGEST:**

1. The determination of relative merits of the offeror's technical proposal is primarily the responsibility of the procuring agency and GAO will not disturb agency evaluations unless arbitrary or in violation of procurement laws and regulations. Based on the review of the record, GAO finds that the agency's evaluation of the protester's proposal was reasonable.
2. Protester's contention that it should receive the award because it is the lowest evaluated offeror constitutes untimely challenge to solicitation's evaluation criteria which specifically place technical factors above cost. Under GAO's Bid Protest Procedures, a protest against apparent improprieties in the solicitation must be filed prior to the closing date for receipt of initial proposals.
3. In negotiated procurements, procurement officials have broad discretion in determining the manner and extent to which they will make use of technical and cost evaluation results and the extent to which one may be sacrificed for the other is governed only by the tests of rationality and consistency with established evaluation criteria.
4. Whether discussions have been held with offerors is a matter to be determined on the basis of the actions of the parties involved. The records show that early discussions were not held with the proposed awardee. Rather, the agency sought clarification of the proposed awardee's initial proposal for purposes of proper evaluation and no opportunity was provided for proposed awardee to revise or modify its proposal.

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5. The Government has no obligation to eliminate a competitive advantage that a firm may enjoy because of its own particular circumstances or because it gained experience under a prior Government contract or performed contracts for the Government unless such advantage resulted from a preference or unfair action by the contracting agency.
6. The content and extent of an agency's discussions with an offeror are a matter of judgment primarily for determination by the agency involved and that determination is not subject to question by GAO unless it is clearly without reasonable basis.
7. The protester has the burden of proving bias on part of an agency's procurement officials and prejudicial motives will not be attributed to such officials on the basis of inference or supposition.

Information Network Systems (INS) protests the selection of GRD Corporation (GRD) for award of a firm, fixed-price contract under request for proposals (RFP) N62269-82-R-0041 issued by the Naval Air Development Center, Warminster, Pennsylvania. The RFP is for technical and administrative services to collect, input, distribute and centrally maintain the Center Information System (CIS), Automated Interdepartmental Work Agreements Systems (IDWA). No award has been made.

INS raises the following grounds of protest:

- (1) Navy's evaluation of the proposals submitted in response to the RFP was unreasonable and arbitrary;
- (2) INS should have been selected for award because its proposal was technically acceptable and it proposed the lowest cost;
- (3) Navy did not treat all offerors equally during the conduct of the procurement;
- (4) Discussions with INS regarding its technical proposal were inadequate; and

- (5) Navy discriminated against INS because INS is a woman-owned firm.

For the reasons set forth below, we deny INS's protest.

#### Background

The Navy had originally intended to procure the technical and administrative services for the IDWA on a sole-source basis to GRD and had synopsized in the January 18, 1982, Commerce Business Daily that a contract was being negotiated exclusively with GRD. Following a challenge by INS, the Navy issued the RFP on March 4, 1982, on a competitive basis. The RFP was also set aside exclusively for small business participation and eight potential sources were solicited by the Navy.

At the closing date for receipt of proposals, three proposals were received by the Navy. The proposals were evaluated in accordance with the evaluation factors set forth in the RFP. Specifically, the RFP set forth five major evaluation categories which were weighted in the following order of relative importance:

1. Technical Approach
2. Management Plan
3. Knowledge/Experience
4. Manpower Allocation
5. Cost

After the evaluation of initial proposals, GRD received a score of 79 percent out of a maximum possible technical score of 85 percent. INS received an initial technical score of 71.6 percent.

Oral discussions were conducted with all three offerors on May 24, 1982, and each offeror was advised of the technical deficiencies in its proposal. The offerors were advised to submit best and final offers by May 28, 1982, with which request all three offerors complied. After evaluation of the best and final offers, GRD received a technical score of 80.1 percent and INS received a technical score of 72.5 percent. GRD's offered fixed price was \$56,980 and INS's was \$50,758. INS was awarded the maximum

score of 15 percent for its cost proposal. GRD received 13.36 percent for its cost proposal. Thus, GRD's total score was 93.36 percent and INS's was 87.5.

### Proposal Evaluation

Before setting forth INS's arguments in support of its contention that there was no rational basis for the Navy's technical determinations, it would be appropriate to state the general principles which govern our review of an agency's technical evaluations.

The determination of the relative merits of a proposal, particularly with respect to technical considerations, is primarily a matter of administrative discretion. Dynamic Science, Inc., B-188472, July 20, 1977, 77-2 CPD 39. Our function is not to evaluate anew proposals submitted and make our own determinations as to their relative merits. Houston Films, Inc. (Reconsideration), B-184402, June 16, 1976, 76-1 CPD 380. That function is the responsibility of the contracting agency which must bear the burden of any difficulties resulting from a defective evaluation. Macmillan Oil Company, B-189725, January 17, 1978, 78-1 CPD 37. In light of this, we have repeatedly held that procuring officials enjoy a reasonable degree of discretion in evaluation of proposals and that this will not be disturbed unless shown to be arbitrary or in violation of the procurement laws and regulations. Piasecki Aircraft Corporation, B-190178, July 6, 1978, 78-2 CPD 10.

Additionally, the protester has the burden of affirmatively proving its case. C. L. Systems, Inc., B-197123, June 30, 1980, 80-1 CPD 448. The fact that the protester does not agree with the agency's evaluation of its proposal does not in itself render the evaluation unreasonable. Kaman Sciences Corporation, B-190143, February 10, 1978, 78-1 CPD 117.

With these general principles in mind, we will now examine INS's arguments.

#### A. Technical Approach

INS contends that the spread of evaluation points in favor of GRD for technical approach was unreasonable in view of the alleged detail in INS's proposal regarding the

implementation of the IDWA. According to INS, the system it proposed was more than adequately described, including the inputs and outputs for each component "module." Also, INS asserts that the IDWA automated system is relatively simple to operate. In this regard, INS alleges that all the documentation necessary to run the system already exists within the Navy. Specifically, INS alleges that the job control language for invoking the interactive input software and all data file updates and production reporting software exist as "disc files" on the Navy's CIS. Consequently, INS takes the position that, by simply executing certain set procedures serially, the IDWA system takes any contractor operating it "by the hand" through the invocation of predefined procedures and programs.

INS further disputes the Navy's finding that its proposal only minimally provided for quality assurance. INS alleges that the Navy's evaluation in this area neglected the quality assurance "implicit" in the IDWA system which was dealt with by INS in several sections of its proposal. In addition, INS charges that the Navy failed to give credit for the quality assurance clarification that INS submitted with its best and final offer.

More specifically, INS claims that its proposal discussed (1) the use of a system maintenance log; (2) corporate quality assurance; (3) status reports and status meetings; (4) project engineer responsibility for verifying quality checks by data technicians; and (5) checking marked-up sheets for completeness and legibility prior to computer data entry. According to INS, quality assurance was directly covered in the "New Software" and "Interactive Query" sections of its proposal. INS asserts that under interactive query, especially, several alternative methods of generating reports were described by INS.

Finally, INS asserts that there is nothing in GRD's proposal which demonstrates technical superiority to INS with respect to quality assurance. INS alleges that its proposal is, in fact, more comprehensive in the treatment of "implicit" IDWA system quality assurance. Specifically, INS claims that the treatment in its proposal of the error logs leading to an "errorless file for permanent updating" is much more specific than the references in GRD's proposal to the quality assurance features built into the IDWA operation software. As to other quality assurance features, INS states that the "character by character" checking of entered data mentioned in its proposal is equivalent to GRD's proposed manual procedures for checking data entries.

The Navy states that the procuring activity concluded that INS's proposal did not demonstrate an adequate understanding of the operation of the IDWA system. The Navy further states INS was informed several times prior to the submission of its proposal that the existing IDWA system documentation was incomplete because the system was in the development stage but INS, nevertheless, chose to furnish a proposal based on the "existing fragmented documentation." The Navy argues that INS's lack of understanding of the IDWA system was specifically demonstrated by INS's continued reference in its initial proposal to the use of the system 2000 and INS's expertise in the use of that system when, in fact, the IDWA does not use the system 2000. In view of the incomplete documentation available on the IDWA system, the Navy also disputes INS's contention that the IDWA could be easily operated using existing documentation.

#### GAO Analysis

From our review of the record, we find that the Navy's evaluation of the proposed technical approaches of INS and GRD was reasonable. As noted above, INS's technical approach to the IDWA system was found by the Navy to be generalized, vague in detail and not specifying operational aspects or relationships of personnel. Also, INS's concept of the IDWA system being based on the system 2000 was found to be incorrect. After evaluation of INS's best and final offer, the Navy found that INS had clarified its understanding of the computer programming languages used by the IDWA but that INS's proposed technical approach still did not demonstrate a complete detailed understanding of the IDWA system.

On the other hand, GRD's proposal was found to have shown a thorough definition and understanding of all requisite IDWA system tasks, phases of operations and interrelationships of system personnel. Specifically, GRD's proposed approach identified in detail the aspects of data collection, data processing, report generation and system validation.

With regard to INS's argument that its proposal was of sufficient detail in view of the documentation and software that already existed for running the IDWA system, we note that the RFP's statement of work indicated that IDWA had been absorbed by the CIS and that the system was not fully operational. Further, one of the tasks in the statement of work was to "thoroughly test the system's new software, offering suggestions for faster turnaround time, reporting

failures in the operation of the system and hindrances which impact its targeted efficiency." Even more importantly, the RFP cautioned prospective offerors to clearly demonstrate in their proposals a thorough understanding of the scientific and engineering problems inherent in the "development effort" called for in the specifications. The RFP emphasized that clarity and completeness of the offeror's technical approach were essential and that paraphrasing of the specifications or parts thereof would be considered inadequate.

Furthermore, in the following language in its proposal, we think that INS recognized that the documentation for operating the IDWA was incomplete:

"The proposal is based on best available information to INS of the IDWA system. INS realizes that the IDWA system is in a state of development and that changes and documentation of these changes are in preparation. \* \* \*"

Consequently, we cannot conclude, as urged by INS, that the operation of the IDWA system simply involves the serial execution of certain predefined procedures and programs.

Turning to INS's arguments concerning quality control, the record shows that the company's quality assurance plan, like the other aspects of its proposed technical approach, was generalized and vague in detail. In part, INS's proposal merely stated the quality assurance of data input was "implicit" in the IDWA system update and maintenance procedures. Other aspects of INS's proposed quality assurance plan contained only general assurances that system maintenance logs would be maintained by INS personnel to record all observed IDWA system deficiencies and that INS corporate quality assurance personnel would also monitor the system maintenance logs.

Moreover, the record reveals that, during the oral discussions following the submission of initial proposals under the RFP, the Navy specifically informed INS that its proposal for minimal quality assurance of system output and its quality assurance procedures should be addressed in more detail. INS's best and final offer directly referenced quality assurance to the extent that it made clear that INS's project engineer would have the primary responsibility for quality assurance. However, the Navy determined that INS's best and final offer did not provide the overall quality assurance clarification that had been asked for and

thus did not award any additional technical evaluation points to INS.

B. Other Technical Evaluation Factors

INS objects to the Navy's criticism of its proposed management plan because of the inclusion of its president in the plan. INS asserts that the Navy's criticism rests on the incorrect assumption that, when INS's proposed IDWA project engineer interfaces with its president, the methodology for resolution of any system problem would be compromised because of the lack of technical expertise on the part of INS's president. INS alleges that its president was included in its management plan because the Navy had specified at a preproposal briefing that the IDWA used the system 2000 and INS's president had significant expertise in the system 2000.

INS also objects to the Navy's technical evaluators categorizing its proposed project engineer as a "class 3 engineer." INS argues that there is no reference to nor definition of such an engineer in the RFP. INS questions whether the Navy's use of such "unorthodox" terminology to describe INS's project engineer was meant to mean that the Navy had downgraded INS's proposal in this area. In this regard, INS alleges that it proposed a degreed computer scientist as project engineer and that the individual's expertise was sufficient for a complete understanding of the IDWA system's details and interrelationships.

With regard to the technical evaluation category of manpower allocation, INS asserts that all three offerors proposed personnel capable of performing the work specified in the RFP and that no quantifiable differences existed to substantiate any finding that the manpower allocation of one offeror was either superior or inferior to the manpower allocation of the other offerors. Nevertheless, INS argues that the training required to operate the IDWA system at an acceptable level should have been directly related to the technical evaluation category of knowledge/experience. INS questions whether the Navy in evaluating the proposals it received actually "supplanted" the evaluation category of manpower allocation with the evaluation category of knowledge/experience. INS questions why the Navy awarded GRD three technical points more than it awarded INS when all the offerors were in fact equally capable of performing the contract work.

The Navy states that the evaluation category of knowledge/experience did not supplant the evaluation category of manpower allocation. The Navy emphasizes that these technical evaluation categories were set forth in the RFP as completely separate from each other and were treated as such during the evaluation process. More specifically, the Navy states that under the RFP, the evaluation category of manpower allocation involved evidence in each offeror's proposal that the offeror had in its employ a sufficient number of management and technical personnel qualified to perform the contract work. The evaluation category of knowledge/experience, on the other hand, involved the actual sufficiency of the technical qualifications of each offeror's proposed personnel and the extent of the offeror's experience in the type of work set forth in the RFP.

As to INS's alleged technical point score difference between its proposal and GRD's proposal in the evaluation category of manpower allocation, the Navy states that the final technical score out of a maximum possible score of 20 percent in this category was 18.1 percent for GRD and 17.5 percent for INS. The Navy goes on to state, as noted by INS, that the 0.6-percent difference between the two offerors was not significant. The Navy asserts, however, that what INS has done is to put the scores for manpower allocation on a scale of 100, thus producing the 3-point difference. The Navy points out that the difference in technical scores is still 3 percent whether the original evaluation figures are used or whether INS's figures are used.

#### GAO Analysis

With respect to the proposed management plans of INS and GRD, the record shows that both offerors' initial management plans were considered acceptable. However, the Navy found that GRD's proposal contained contradictory information regarding the company's proposed management lines of authority. As to INS, the Navy found that its management plan contained no intermediate levels between its president and the proposed project engineer. The Navy also determined that there was insufficient explanation regarding the methodology of problem resolution when the IDWA system problem was outside the capability of INS's project engineer.

After the submission of best and final offers, GRD's technical score increased slightly because the company had sufficiently clarified its management lines. INS's technical score also increased slightly because INS had provided

an intermediate level Government liaison in its best and final offer. Overall, out of a maximum possible score of 20 percent for the technical evaluation category of management plan, INS's final rating was 17.6 percent as compared to GRD's final rating of 18.5 percent.

In view of the fact that there is only a 0.9-percent difference between INS's and GRD's evaluation scores for the management plan, it appears that, like the two companies' scores for manpower allocation, there is no significant difference between INS and GRD in this particular evaluation category. Consequently, we see no prejudice to INS from whatever doubts the Navy had about the management capabilities of INS's proposed project engineer, especially since the addition by INS in its best and final offer of an intermediate level Government liaison seemed to satisfy the Navy. Nor do we see any prejudice to INS from the Navy having categorized INS's proposed project engineer as a "class 3 engineer."

The essential difference, in our opinion, between the proposal of GRD and the proposal of INS with regard to the technical evaluation categories other than technical approach was GRD's extensive prior knowledge and experience with the IDWA system. The record reveals that the Navy determined GRD to be the "clear leader" in this particular evaluation category. The Navy found that GRD had nine contracts that required IDWA "tracking" and that GRD's current contract with the Navy had an identical technical requirement to that contained in the RFP. On the other hand, INS was found by the Navy to have little IDWA automation experience.

### C. Cost Evaluation

INS also questions certain reductions in GRD's best and final cost proposal. Basically, INS asserts that GRD's technical score for its management plan cannot be increased because of the inclusion of certain direct cost personnel in its management lines of authority while at the same time its cost proposal is decreased. In addition, INS alleges that GRD's initial cost proposal contained an onsite overhead rate when there was nothing in the RFP to indicate that onsite facilities were available. Finally, INS alleges that the Navy's price analyst improperly failed to perform a price evaluation on GRD's best and final cost proposal.

### GAO Analysis

Even though INS suggests that the increase in GRD technical personnel should have caused an increase in the best and final price, we have held that once negotiations are opened and best and finals requested, offerors are free to revise their prices as they deem appropriate and we will not speculate on why an offeror may choose to reduce its price. Bell Aerospace Company, 55 Comp. Gen. 244 (1975), 75-2 CPD 168. In the Bell decision we said that it is not uncommon for offerors to submit substantial price reductions in the final stages of negotiations even without changes in requirements.

With regard to the onsite overhead contained in GRD's initial cost proposal, the record shows that the Navy informed all offerors during oral discussions to revise their respective cost proposals to reflect incorporation of offsite overhead rates. The record also shows that all offerors proposed offsite overhead rates in their best and final offers. As to the failure of the Navy's price analyst to review the best and final cost proposals, we note that the report states that the price analyst was consulted after the receipt of initial proposals, but that the contracting officer and the technical evaluators determined that it was not necessary for the price analyst to conduct a review of the best and final cost offers.

### Selection for Award

INS contends that, given the technical acceptability of all the offerors, the lowest priced offeror should win the award in this procurement. INS argues that since the RFP contemplated award on a firm, fixed-price basis, it is clear that the Government desires an acceptable product at a minimal cost. INS asserts that, during the Navy's evaluation of its proposal, there was never any question of its qualifications to perform the required contract work. Consequently, INS takes the position that it should be awarded the contract under the RFP since it is in fact the lowest priced offeror.

In addition, INS maintains that the Navy's 85- to 15-percent technical-to-cost ratio for award selection is unreasonable for a firm, fixed-price contract. INS further emphasizes that there was nothing stated in the RFP to indicate to offerors that 85/15 was to be the evaluation ratio for award. In GRD's opinion, the question arises as to whether the Navy's use of such a ratio was deliberately done to discriminate against INS as the lowest priced offeror.

### GAO Analysis

We have recognized that in a negotiated procurement, procurement officials have broad discretion in determining the manner and extent to which they will make use of the technical and cost evaluation results. Cost/technical tradeoffs may be made and the extent to which one may be sacrificed for the other is governed only by the tests of rationality and consistency with the established evaluation factors. Grey Advertising, Inc., 55 Comp. Gen. 1111 (1976), 76-1 CPD 325. Where the agency's procurement officials have made a cost/technical tradeoff, the question then is whether this determination is reasonable in light of the RFP's evaluation scheme. Also, as we stated in 52 Comp. Gen. 358 (1972), at 365, the determining element in the selection for award is not the difference in technical merit per se, but the considered judgment of the procuring agency concerning the significance of the difference. We have upheld awards to higher rated offerors with significantly higher proposed costs because it was determined that the cost premium was justified considering the significant technical superiority of the selected offeror's proposal. Riggins & Williamson Machine Company, Incorporated et al., 54 Comp. Gen. 783 (1975), 75-1 CPD 783.

With regard to INS's argument that the lowest evaluated offer should receive the award, we find that it is an untimely challenge to the RFP's evaluation criteria. Under our Bid Protest Procedures, a protest based upon alleged improprieties in a solicitation which are apparent prior to the closing date for receipt of initial proposals must be filed prior to that date. 4 C.F.R. § 21.2(a) (1982). The RFP clearly indicated that the evaluation factors of technical approach, management plan, offeror experience and manpower allocation were more important than evaluated cost. Further, the RFP specified that only when offerors in the competitive range were determined to have substantially equal technical proposals would cost be considered the predominant factor in determining which offeror should receive the award. The closing date for receipt of initial proposals was June 4, 1982. INS's protest was not filed with our Office until June 23, 1982.

As to the Navy's evaluation of GRD as the technically superior offeror, we find that the evaluation was consistent with the RFP. The RFP made technical approach the most important proposal evaluation factor and specified that this

involved the offeror's interpretation of the defined tasks, the offeror's methods for interacting with the Navy's personnel and the offeror's quality assurance provisions. As noted above, the Navy found that GRD's proposed technical approach was much more detailed than INS's in defining all requisite IDWA tasks, phases of operation and interrelationships of personnel. While GRD's proposal was essentially equal to INS's with regard to proposed management plan and manpower allocation, we think that GRD's additional superiority in the evaluation category of knowledge and experience, coupled with GRD's superior technical approach, is sufficient to support the Navy's overall determination that GRD's proposal is the technically superior one.

Further, while the RFP did not indicate that an 85/15 technical/cost ratio would be employed, it did indicate the evaluation factors that would be considered. Cost was listed as the least important factor. While INS objects to the 15-percent allotment used for cost, in Bell Aerospace Company, supra, we accepted a 6.4-percent allotment for cost. There, as here, cost was considered as a part of and separate from the numerical ratings in determining the successful offeror. In Bell Aerospace Company, supra, at 257, we stated:

\* \* \* we believe cost was given appropriate consideration and that, in this regard, this case is not significantly different from many others in which award of a fixed-price contract was made to a higher-priced but technically superior offeror. \* \* \*

Further, since cost was also considered apart from the ratio, INS's suggestion that the ratio was selected to discriminate against INS is not relevant.

#### Equal Treatment of Offerors

INS charges that the Navy entered into negotiations with GRD at least 1 month prior to entering into negotiations with the other offerors under the RFP. More specifically, INS alleges that the Navy entered into discussions with GRD on April 15, 1982, regarding certain aspects of GRD's cost proposal. According to INS, GRD provided the Navy on April 16, 1982, with a clarification of its cost proposal and the Navy's proposal evaluation team was notified to consider the proposal clarification. Consequently, INS claims it was unfair for the Navy to commence negotiations with GRD on April 15, 1982, when oral negotiations

with the other offerors began on May 24, 1982, with only 4 days to submit best and final offers.

INS also contends that the Navy procurement officials misled the company at the preproposal briefing as to the system 2000 being the IDWA's program language. INS alleges that only after submission of initial proposals did the company learn that the system 2000 was not used in the IDWA. INS further alleges that prior to the submission of its initial proposal, it was encouraged by Navy procurement officials to discuss the advantages of the system 2000.

Finally, INS claims that GRD enjoyed an unfair competitive advantage because of GRD's prior work on the IDWA system for the Navy. INS asserts that an incumbent contractor can be comprehensive in its proposal beyond the ability of any competitor because the incumbent can detail the details of day-to-day logistics for a system. INS argues that the incumbent's ability to detail should not be a basis for award because this would mean that a competitive contract would never be awarded to other than an incumbent and the whole basis for competition would be eradicated.

The Navy disputes INS's contention that discussions were conducted with GRD prior to May 24, 1982. The Navy states that GRD's initial proposal was considered to be ambiguous. Accordingly, the Navy contacted GRD on April 15, 1982, to clarify whether two individuals listed in GRD's proposal were being proposed as middle level supervisors. The Navy takes the position, then, that this was merely a clarification of GRD's proposal and not the opening of either technical or cost discussions. According to the Navy, the Government was required to ascertain GRD's intentions in order to properly assess and evaluate GRD's proposal.

#### GAO Analysis

With regard to INS's assertion that the Navy entered into early discussions with GRD, we have held that, if discussions are held with one offeror, they must be held with all offerors in the competitive range. See University of New Orleans, B-184194, September 19, 1977, 77-2 CPD 201. However, whether discussions have been held is a matter to be determined on the basis of the actions of the parties involved. See New Hampshire-Vermont Health Service, 57 Comp. Gen. 347 (1978), 78-1 CPD 202. While it is not always easy

to determine if a Government/offeror contact or interchange constitutes competitive range discussions, we have stated that the acid test of whether discussions have been held is whether it can be said that an offeror was provided the opportunity to revise or modify its proposal. See 51 Comp. Gen. 479 (1972); The Human Resources Company, B-187153, November 30, 1976, 76-2 CPD 459.

The record shows that GRD was not provided an early opportunity to revise its proposal because of the contact by the Navy concerning GRD's proposed management plan. Rather, the Navy's evaluators drew their own initial conclusions regarding the resumes of two of GRD's proposed management personnel and determined that the resumes should be eliminated because GRD did not propose the two individuals as direct labor costs. It was not until the submission of its best and final offer that GRD actually changed its proposal to make one of these individuals a middle level supervisor.

With regard to INS's allegation that it was unfairly misled into believing it could propose an IDWA system based on the system 2000, the record shows that the Navy clearly advised INS during the discussions that the IDWA does not use the system 2000. As a result, INS specifically eliminated all references to the system 2000 in its best and final offer. Moreover, as noted above, the Navy found that INS had clarified in its best and final offer its understanding of the computer programming languages used by the IDWA. Consequently, we find that, regardless of how INS initially believed that it was appropriate to propose the system 2000, the company was not harmed in the final technical evaluations because of its apparently mistaken belief.

Turning to the advantage that GRD had because of its prior experience with the IDWA, we agree with INS that GRD was better able to detail day-to-day operations as a result of the prior experience. However, the Government has no obligation to eliminate a competitive advantage that a firm may enjoy because of its own particular circumstances or because it gained experience under a prior Government contract or performed contracts for the Government unless the advantage resulted from a preference or unfair action by the contracting agency. See, e.g., Varo, Inc., B-193789, July 18, 1980, 80-2 CPD 44; ENSEC Service Corp., 55 Comp. Gen. 656 (1976), 76-1 CPD 34. There is nothing in the record which, in our opinion, reveals any preference or

unfair action by the Navy in favor of GRD. We see nothing improper in the Navy giving GRD a better evaluation for GRD's technical approach to the IDWA because of the detail GRD provided in outlining this approach.

#### Discussions

INS asserts that all the details of the Navy's critique of its proposal were not made available to INS during discussions. In this regard, INS has submitted to our Office its own typed list of areas of INS's proposal which the Navy orally discussed with INS. INS alleges that what appears on this list constitutes the extent of the "feedback" the Navy gave INS during discussions. Also, INS complains that the discussions that did take place concerning the exact nature of programming language of the IDWA system resulted in an inadequate clarification by the Navy.

#### GAO Analysis

When an agency conducts competitive range discussions, it must make those discussions meaningful. Raytheon Company, 54 Comp. Gen. 169 (1974), 74-3 CPD 137. However, we have specifically rejected the notion that agencies are obligated to afford offerors all-encompassing negotiations. Such negotiations may unfairly prejudice the rights of other competing offerors. In particular, deficiencies or weaknesses in a proposal need not be pointed out when to do so could result in technical "transfusion" (disclosure of one offeror's innovative solution to a problem) or technical "leveling" (helping one offeror bring his original inadequate proposal up to the level of other adequate proposals by pointing out weaknesses resulting from lack of diligence or competence). 52 Comp. Gen. 870 (1973); 51 Comp. Gen. 621 (1972).

Further, the content and extent of meaningful discussions in a given case are a matter of judgment primarily for determination by the agency involved and that determination is not subject to question by our Office unless it is clearly without a reasonable basis. Washington School of Psychiatry, B-189702, May 7, 1978, 78-1 CPD 176; System Engineering Associates Corporation, B-187601, February 24, 1977, 77-1 CPD 137. Such matters are not subject to any fixed, inflexible rule. 53 Comp. Gen. 240, 247 (1973). However, Government negotiators should be as specific as practical considerations will permit in advising offerors of the corrections required in their proposals. 52 Comp. Gen. 466, 468 (1973).

From the record, we think that the content and extent of the discussions by the Navy were reasonable. The list of areas of discussion provided by INS shows, in our opinion, that the Navy discussed most, if not all, of the major inadequacies in INS's initial proposal. The Navy informed INS that its proposal was overall too generalized and vague in details, especially the relationships of INS's proposed personnel in INS's proposed operation plan and INS's proposed quality assurance plan. More specifically, the Navy told INS that the company needed to more clearly define in its proposed management plan the responsibilities of each management level. As to INS's argument that all inadequacies in its proposal should have been discussed, we find that the Navy's overall emphasis on INS's lack of proposal detail was sufficient to lead the company into all areas of its proposal that were unclear and thus put the company on notice that its proposal was inadequate in those areas. See Systems Consultants, Inc., B-187745, August 29, 1977, 77-2 CPD 153; ASC Systems Corporation, January 26, 1977, 77-1 CPD 60.

#### Bias In Evaluation

INS alleges that the Navy procurement officials were biased against INS because the company is a woman-owned concern. In support of this allegation, INS asserts that there has been a pattern of discrimination against INS in the past 2 years by the contracting officer in this procurement. According to INS, every recent requirement for project management services, which was initially recommended for procurement from INS using a sole-source purchase order, was later changed by the contracting officer to a competitive procurement. INS alleges that such change never occurred when a requirement for project management services was recommended for procurement on a sole-source basis from a male-owned firm.

The Navy asserts that there is no evidence to substantiate INS's allegation of sex discrimination. The Navy points out that INS has received more than \$600,000 of the Navy's business in the last 2 years. While the Navy claims this reveals nothing about the instant procurement, it does reveal, in the Navy's opinion, that there has been no pattern of discrimination against INS. In addition, the Navy argues that the evaluation of INS's proposal was performed in a "fair and conscientious manner" and thus speaks for itself.

### GAO Analysis

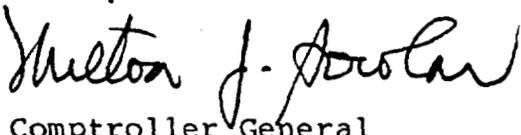
The critical test for determining bias in the agency's evaluation of proposal is whether all offerors in the competition were treated fairly and equally. See Servo Corporation of America, B-193240, May 29, 1979, 79-1 CPD 380. However, the protester has the burden of proving its case and unfair or prejudicial motives will not be attributed to procurement officials on the basis of inference or supposition. See A.R.F. Products, Inc., 56 Comp. Gen. 201, 208 (1976), 76-2 CPD 541.

We agree with the Navy that there is no evidence of discrimination against INS. INS's demonstration of discrimination involves, in addition to the INS sole-source purchase orders that were changed into competitive procurements, allegations that one Navy integrated management support service procurement should have been immediately awarded to INS rather than going out for a second round of best and final offers and that a male-owned company that had been in existence only 3 months won another award of a management support service contract. We recognize that where the subjective motivation of an agency's procurement personnel is being challenged, it is difficult for a protester to establish--on the written record which forms the basis for our Office's decisions in protests--the existence of bias. See Joseph Legat Architects, B-187160, December 13, 1977, 77-2 CPD 458. Nevertheless, we do not view INS's examples of alleged past mistreatment by the Navy as evidence of discrimination against the company for being a woman-owned concern in this procurement. As noted above, the evaluation of INS's proposal was reasonable. Thus, there is no indication that bias affected INS's competitive standing in this case. See Science Information Services, Inc., B-207149.2, November 29, 1982, 82-2 CPD 477. Prior practices do not suffice to meet the high standard of proof required to show bad faith. See Boone, Young & Associates, Inc., B-199540.3, November 16, 1982, 82-2 CPD 443.

Where the written record fails to demonstrate bias, the protester's allegations are properly to be regarded as mere speculation. See Sperry Rand Corporation, 56 Comp. Gen. 312, 319 (1977), 77-1 CPD 77.

Conclusion

We deny INS's protest.

*for*   
Comptroller General  
of the United States