



Comptroller General  
of the United States  
Washington, D.C. 20548

154189

## Decision

**Matter of:** Formal Management Systems, Inc.

**File:** B-259824

**Date:** May 3, 1995

Roberto L. Novey, Jr., Formal Management Systems, Inc., for the protester.

James J. Hannigan, Panama Canal Commission, for the agency. Charles W. Morrow, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Agency reasonably made award to the substantially low-priced, technically superior offeror where the record reasonably supports the protester's lower rating.

### DECISION

Formal Management Systems, Inc. (FMS) protests the award of a contract to Kunkel-Wiese, Inc. under request for proposals (RFP) No. CD-95-17, issued by the Panama Canal Commission (PCC) to drill holes on sidewalls at the Gatun Locks. FMS contends that the agency improperly evaluated proposals and made award without discussions on the basis of initial proposals.

We deny the protest.

The RFP provided for the award of a firm, fixed-price contract to the offeror with the most advantageous offer, cost or price and other factors listed in the RFP considered. The technical evaluation factors, listed in descending order of importance, were (1) proposed organization and management, (2) corporate experience and staff capability, and (3) past performance. The technical factors were worth 50 points<sup>1</sup> and price 50 points in the

<sup>1</sup>The RFP defined past performance as the offeror's ability to comply with contract terms and conditions, and stated that appropriate consideration would be given to the past performance of the offeror's key personnel.

<sup>2</sup>Proposed organization and management was worth 20 points, corporate experience and staff capability was worth 17 points, and past performance was worth 13 points.

evaluation, and award was to be made to the offeror with the highest combined score. The RFP advised offerors that award could be made without discussions and cautioned offerors to submit their initial offers on the most favorable terms.

PCC received two proposals by the closing date. Kunkel-Wiese submitted the lowest-priced proposal of \$27,477 and was awarded 50 points, while FMS' price was \$48,440 and the firm was awarded 35 points. The technical proposals were evaluated by a single technical evaluator. Under the technical factors, the evaluator rated Kunkel-Wiese slightly higher than FMS under the proposed organization and management factor (19 to 16 points) because Kunkel-Wiese's proposal clearly identified the flow of authority and start-up plan, while FMS' proposal lacked such detail and relied too heavily upon past experience. Kunkel-Wiese was rated slightly lower than FMS under the corporate experience and staff capability factor (15.5 to 16.2 points); while FMS had performed the most relevant previous work for PCC, Kunkel-Wiese proposed as the project supervisor a former FMS employee who was an expert in this work. The evaluator gave Kunkel-Wiese and FMS the identical score under the past performance factor (11.8 points) because both offerors' past performance was acceptable; FMS had successfully performed the same work for PCC, while Kunkel-Wiese had proposed the highly experienced former FMS employee and had received excellent performance evaluations on other contracts.

Kunkel-Wiese received an overall score of 96.3 of 100 points--50 points for price and 46.3 points for technical factors--and FMS received an overall score of 79 points--35 points for price and 44 points for technical factors. Based on this evaluation, PCC made award to Kunkel-Wiese without discussions. This protest followed.

FMS first objects to the evaluation by a single evaluator. The composition of an evaluation panel is a matter within the agency's discretion, which we will not review absent a showing of possible fraud, conflict of interest, or actual bias on the part of evaluation officials, none of which has been shown here. Solid Waste Integrated Sys. Corp., B-258544, Jan. 17, 1995, 95-1 CPD ¶ 23. In any case, there is no prohibition against an agency's use of a single evaluator to evaluate proposals. See id.

FMS disputes the technical evaluation, speculating that Kunkel-Wiese's proposal could not have contained the details that FMS' proposal allegedly lacked, and questioning Kunkel-Wiese's favorable past performance rating in the face of what FMS contends was allegedly dilatory performance by Kunkel-Wiese on four prior contracts.

Our review of the record confirms that FMS' proposal lacked detail in the respects noted by PCC when compared to Kunkel-Wiese's proposal. An offeror, including a prior successful contractor, has the burden of submitting an adequately written proposal, and an agency may downgrade a proposal for lack of detail pertaining to the requirements of an RFP, or consider a more detailed proposal superior. See Medland Controls, Inc., B-255204; B-255204.3, Feb. 17, 1994, 94-1 CPD ¶ 260; SRI Int'l, Inc., B-250327.4, Apr. 27, 1993, 93-1 CPD ¶ 344. Moreover, FMS has not shown that its past performance was superior to Kunkel-Wiese's, particularly when Kunkel-Wiese's proposal of FMS' former employee with expertise on this type of work is considered, as was contemplated by the RFP. See Canaveral Port Servs., Inc.; General Offshore Corp., B-211627.3; B-211627.4, Sept. 26, 1984, 84-2 CPD ¶ 358. In any case, FMS has not shown that its lower-rated proposal was so technically superior to Kunkel-Wiese's that the awardee's significant price advantage would be offset, even assuming FMS' complaints about the technical evaluation had merit. See Colonial Storage Co.-- Recon., B-253501.8, May 31, 1994, 94-1 CPD ¶ 335.

Finally, FMS argues that PCC was required to conduct discussions in this case. This contention has no merit. An agency generally has no obligation to conduct discussions where the solicitation authorizes award without discussions and discussions are not necessary to determine the most advantageous offer. See SYS, B-258700, Jan. 31, 1995, 95-1 CPD ¶ 57; White Storage and Retrieval Sys., Inc., B-250133, Jan. 12, 1993, 93-1 CPD ¶ 34. Here, the record shows the award was reasonable and in accordance with the evaluation criteria, and FMS does not suggest that it would have substantially reduced its price if discussions had been conducted.

The protest is denied.

\s\ Michael R. Golden  
for Robert P. Murphy  
General Counsel

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<sup>3</sup> Kunkel-Wiese also asserts that it is not dilatory on any contracts.