

SUPPLY MANAGEMENT



November 12, 2013

Mr. Henry Graham, Jr.
Graham & Graham Trucking LLC
P.O. Box 333
Norwich, NY 13815-0333

RE: Supplier Disagreement Resolution Case No. SDR14MT-01
USPS Solicitation for HCR No. 130L3

Dear Mr. Graham:

This letter responds to the supplier disagreement ("Disagreement") you lodged with the Supplier Disagreement Resolution ("SDR") Official on behalf of Graham and Graham Trucking, LLC ("Graham") with respect to the United States Postal Service ("USPS") Solicitation for Highway Contract Route ("HCR") No. 130L3, Transportation Service from the Syracuse P&DC to Skaneateles, NY. Graham lodged an initial disagreement regarding this Solicitation and award with the contracting officer ("CO") on September 25, 2013. The CO denied the initial disagreement on October 3, 2013. Graham then lodged this Disagreement with the SDR Official by letter dated October 12, 2013.

The Disagreement

The Disagreement is based on the following three assertions: (1) Graham claims that proper procedures were not followed in this matter and as a result it has suffered a financial loss; (2) Graham claims that it did not withdraw its bid prior to the Postal Service making an award decision; and (3) Graham claims it could have challenged the contract award prior to its execution had it received notification of the selection of the successful offeror.

Material Reviewed

In my review of the record, I had a telephone conversation with Mr. Graham, and I have had conversations with the CO and the Contract Transportation Specialist, both by phone and by email. Also, I have reviewed the following documents:

- the Solicitation;
- the initial disagreement;
- the CO's response to the initial disagreement;
- Graham's proposal;
- the Report of Proposals Received – Transportation Services Contract;
- the Disagreement lodged with the SDR Official; and
- the comment received in response to the notification sent to interested parties.

Discussion

Offers were solicited through a reverse auction for a regular, fixed price contract to provide service between the Syracuse P&DC to Skaneateles, NY. The Solicitation stated, "Offers will be evaluated in price order. Award will be made on the offer providing the best value to the Postal Service. Therefore, suppliers may continue to place bids above the lowest offer since competitive offers may be considered."¹ The auction took place on July 26, 2011, and eight offerors participated. Based on the rates proposed in the auction, Graham was the lowest priced offeror. In August 2011, the Postal Service required the three, lowest-priced offerors to submit documentation supporting their proposal for this highway contract route. After the supporting documentation was received, the solicitation was submitted for the required review process to determine if outsourcing was appropriate under the existing labor agreement. The decision in this process was delayed and Graham was notified of the delay in awarding the contract in a September 21, 2011, letter sent to it from the CO. Once a determination was made to proceed with outsourcing this particular route, the Contract Transportation Specialist contacted Graham by telephone to determine whether its offer was still valid and, if it was not, to ask whether Graham wanted to modify it. Mr. Graham informed the Contract Transportation Specialist that Graham was withdrawing its offer. However, Mr. Graham disputes this statement. He claims that, not only did he never tell the Contract Transportation Specialist that Graham was withdrawing its offer, he never had a phone conversation with the Contract Transportation Specialist during the time period at issue. Moreover, he claims Graham never submitted a written withdrawal because it never withdrew its offer in the first place.

Believing that Graham had withdrawn its offer, the Contract Transportation Specialist continued to evaluate offers in price order. The Contract Transportation Specialist contacted the offeror who had submitted the second, lowest-priced offer to inquire whether its offer was still valid. Following that phone conversation, on December 31, 2012, the supplier sent the Contract Transportation Specialist a fax of the Highway Transportation Contract – Cost Worksheet (Form 7468A), which included new rates. Nevertheless, a few days later, on January 2, 2013, the supplier sent an e-mail to the Contract Transportation Specialist indicating that it had decided to withdraw its original offer due to the time lapse and changes in leasing options.

Given that the Contract Transportation Specialist believed that Graham withdrew its offer and the second, lowest-priced offeror could no longer stand by its original offer, the third, lowest-priced offeror was contacted and indicated that it would be able to perform the solicited services at the price it originally bid. The CO, relying on the verbal representations made by the Contract Transportation Specialist that Graham had withdrawn its offer and the documentation included in the file showing the second, lowest-priced offeror's withdrawal, awarded the contract to the third, lowest-priced offeror on January 19, 2013.

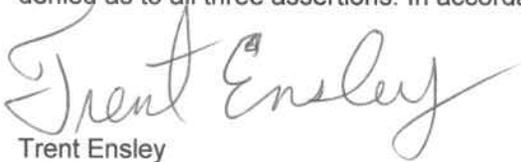
Decision

After reviewing the contract file, having a conversation with Mr. Graham, and holding discussions with the CO and Contract Transportation Specialist, I have determined that the record does not contain written documentation that Graham withdrew its offer. However, the Contract Transportation Specialist's actions were otherwise consistent with his position that Graham had withdrawn its offer. Otherwise, there is no rationale in the record for the specialist continuing to move down the offeror list, calling potential suppliers until he found the next lowest bidder willing to stand by their bid.

Therefore, based on the language included in the Solicitation that offers would be evaluated in price order, the Postal Service's interest in obtaining best value, and the contracting officer's determination

¹ Solicitation #060-186-11, HCR 130L3, Syracuse P&DC, NY to Skaneateles, NY, p. 1 (emphasis in original).

that all offers previously lower than that of the eventual awardee had been withdrawn, I conclude that the Postal Service received best value in this Solicitation and Award. Graham's disagreement is denied as to all three assertions. In accordance with 39 C.F.R. § 601.108(g), this is my final decision.

A handwritten signature in cursive script that reads "Trent Ensley". The signature is written in dark ink and is positioned above the printed name and title.

Trent Ensley
USPS Supplier Disagreement Resolution Official

cc: Richard Deenihan
Robert Drake
Helen Hynes
Richard Salanger