



November 27, 2007

Ms. JoHanna C. Cox, Esq.
Silva, Saucedo & Gonzales, P.C.
201 Third Street, N.W., Suite 1800
Albuquerque, N.M. 87103-0100

RE: Supplier Disagreement Resolution Case No. OM08SR-01
Solicitation No. R9848132

Dear Ms. Cox:

Your letter of October 29 presented a disagreement as defined in 39 CFR Part 601 on behalf of Alan Tooraen (Mr. Tooraen) with respect to the referenced solicitation. You contend that Mr. Tooraen met the requirements of the solicitation and you request that the Contracting Officer's award decision be reversed and that the Contract Postal Unit (CPU) be awarded to Mr. Tooraen.

I have examined the disagreement lodged with me as well as the information you provided. I have also examined the contracting officer's administrative file and information submitted by the awardee, Ms. Lorie Vigil. Based on my examination of the facts presented to me, your disagreement is denied.

You assert that Mr. Tooraen's offer was lower than the accepted offer and thus should have been awarded the contract. You also believe that Mr. Tooraen did not have an opportunity to submit a final offer as did the other offerors. According to the administrative file, the Contracting Officer sent two e-mails requesting final offers. Based on the e-mail log, none of the three offerors responded to the first request sent on August 29. However, all of the offerors, except Mr. Tooraen, responded to the second request sent on September 17. You state that Mr. Tooraen was unable to determine whether or not he received the respective e-mails. However, based on the information provided I have no reason to believe that the e-mail requests were mishandled and you failed to provide any documentation to suggest otherwise. Additionally, since price was not the determining factor for award and since Mr. Tooraen's initial offer was already lower than that submitted by the awardee, a further reduction would not have been a determining factor in the best value award decision.

A review of the administrative file, specifically the best value determination summary and the evaluation summary, provided by the Contracting Officer fails to demonstrate that the award to Ms. Vigil was not a rational best value determination and that the Postal Service evaluation of Mr. Tooraen was flawed. Although you made several allegations that Mr. Tooraen's performance evaluation factors were superior to that of Ms. Vigil, based on my review of all of the documentation presented, I disagree. After review of the evaluation summaries, I find that the contract was awarded in accordance to the evaluation criteria outlined in the solicitation. Provision 4-2 (Evaluation) of the solicitation states the following: "the performance evaluation factors (proposal-specific and supplier-specific factors), when combined are considered to be more important as price (sic). The following performance evaluation factors were used to evaluate the offers:

- (1) Supplier-Specific Factors –Pass or Fail Basis
 - (a) Past Performance
 - (b) Capability
- (2) Proposal-Specific Factors
 - (a) Characteristics of the Supplier's Retail Facility
 - (i) Location
 - (ii) Current Business Volume
 - (iii) Physical Characteristics (including accessibility to the handicapped)
 - (iv) Parking and Public Transportation (including handicapped parking)
 - (b) Characteristics of the Proposed CPU Facility within the Supplier's Retail Facility
 - (c) Staffing

According to the evaluation summaries, Mr. Tooraen received no points from the three evaluators for Current Business Volume. Based on the information in the administrative file, at the time the solicitation responses were evaluated Mr. Tooraen had a business located in Louisiana, but no operating business located in Algodones, NM. However, the solicitation calls for the CPU to be located in Algodones, NM. Consequently, Mr. Tooraen appropriately received zero points for having no current business volume in Algodones. Ms. Vigil, on the other hand, currently operates a business that has existed for several years. As a result, Ms. Vigil's total evaluation score was higher than that of Mr. Tooraen. I did not see any evidence in your documentation or the administrative file to suggest that the scoring was flawed or unfair.

I conclude that the information provided on behalf of Mr. Tooraen did not substantiate his assertions and it failed to convince me to overturn the contract award. I find that the award of Solicitation No. R9848132 was properly made by the Contracting Officer and it represented the best value to the Postal Service; therefore, your disagreement is denied and the award of Solicitation No. R9848132 stands.

This is the Postal Service's final decision on this disagreement regarding Solicitation No. R9848132 under 39 CFR 601.108(g).

Sincerely,



Pete Dolder, C.P.M.
USPS Supplier Disagreement Resolution Official

cc: Ricky Johnson, Contracting Officer
Lorie A. Vigil, Interested Party