



December 8, 2020

BY EMAIL AND CERTIFIED MAIL

Gary J. Campbell
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Re: Supplier Disagreement Resolution No. SDR-20-MO-009

Dear Mr. Campbell:

This letter responds to your business disagreement submitted on September 14, 2020 ("SDRO Disagreement") on behalf of Noble Sales Co., Inc., d/b/a Noble Supply & Logistics ("Noble") to the Supplier Disagreement Resolution Official (the "SDRO") concerning Solicitation No. 3CD-20-A-002 for four (4) categories of Maintenance, Repair, and Operations Products ("MRO Products"): Building & Equipment, Custodial, Electrical, and Industrial (the "Solicitation").

Background

Since 2011, Noble has been one of the Postal Service's suppliers of MRO products, specifically Building & Equipment and Industrial supplies, under an existing MRO Products contract. See SDRO Disagreement, Ex. 7, Murphy Dec. at ¶ 3. Due to the impending expiration of the current MRO Products contracts, on February 27, 2020, the Postal Service issued an invitation through the USPS eSourcing platform to, among others, Noble to participate in the Solicitation for the new MRO Products contract. The Solicitation was to be conducted in three (3) phases:

- Phase I: RFI Event - Prequalification Evaluation;
- Phase II: RFP Event - Proposal-Specific Technical and Pricing Proposals; and
- Phase III: RFQ Event - Pricing Proposal Evaluation / Bid Refinement / Optimization.

See SDRO Disagreement, Ex. 2. With regard to Phase I of the Solicitation, also referred to by the Postal Service as RFI Event 1, the invitation message stated:

The prequalification process will present suppliers with a questionnaire designed to determine a level of absolute minimum qualification for this requirement, and to identify those suppliers that do not have the fundamental technical capabilities to compete for a requirement of this scope and magnitude. **The evaluation of supplier responses will focus specifically on Technical Capability, Financial Capability and Past Performance.** All suppliers are advised that failure to completely address all of the requirements or meet the minimum qualification of the Prequalification evaluation process will eliminate them from further consideration. **Suppliers will be initially ranked on an overall numeric scoring system, which will then be converted to an adjectival rating system (i.e., excellent, good, fair, poor and unsatisfactory). Only suppliers that rate as excellent, good, or fair on all questionnaire responses will be considered to have met the minimum qualification (i.e., technically acceptable).** The Postal Service will use the evaluation results to eliminate suppliers that do not meet the minimum qualification and reserves the right to select an adequate number of the most highly pre-qualified suppliers for further consideration in the next event, RFP.

Id. (emphasis added). Thus, the Postal Service stated that it would use the offeror questionnaires to calculate a numerical score for each evaluation factor (Technical Capability, Financial Capability, or Past

Performance), which would then be converted to an adjectival rating ranging from “excellent” to “unsatisfactory.” Any offeror who received either a “poor” or “unsatisfactory” adjectival rating for any evaluation factor would be eliminated from consideration for Phase II of the Solicitation, receipt of a Request for Proposal (“RFP”).

See SDRO Disagreement, Ex. 3. Responses to Phase I (RFI Event 1) were due by March 11, 2020. Noble submitted a complete and timely response to RFI Event 1. On August 7, 2020, the contracting officers (“COs”)¹ notified Noble that it had not been selected to proceed to Phase II and receive the RFP. Noble timely requested a debriefing, which occurred on August 14, 2020. During the debriefing, the COs notified Noble that it had been disqualified solely on the basis of the Postal Service’s evaluation of its Financial Capability. On August 24, 2020, Noble timely lodged an initial business disagreement with the COs in accordance with 39 C.F.R. § 601.107. The COs rendered a written resolution to Noble’s initial disagreement, which was mailed and emailed to you on September 3, 2020. You timely lodged this SDRO disagreement as counsel for Noble on September 14, 2020. To date, the Postal Service has not issued the RFP to offerors for Phase II of the Solicitation.

Disagreement and SDRO Decision

Noble challenges its exclusion from Phase II and Phase III of the Solicitation, specifically with being given a disqualifying Financial Capability adjectival rating.² I have reviewed your SDRO Disagreement and all the Solicitation documents relevant to this matter. I have also discussed the SDRO Disagreement with the COs. Based upon my review of the aforementioned items, I conclude that Noble should not have been excluded from Phase II of the Solicitation as a result of its Financial Capability rating. Therefore, it is my decision to sustain Noble’s business disagreement and direct the contracting officers to include Noble in Phase II of the Solicitation. The COs may proceed with issuing the RFP effective immediately. In accordance with 39 C.F.R. § 601.108(g), this is my final and binding resolution of this matter.

Sincerely,

Robert D. D’Orso
Supplier Disagreement Resolution Official
Manager, Policy, Compliance & Audit

cc: Anthony S. Jones, Contracting Officer
Sijo V. Sunny, Contracting Officer

¹ Due to the size and scope of this procurement, USPS Supply Management assigned two contracting officers to manage the Solicitation.

² Throughout its SDRO Disagreement, Noble cites to the Federal Acquisition Regulations (FAR), decisions of the Government Accountability Office (GAO), and USPS Supplying Principles and Practices (SPs & Ps). As the Postal Service is not governed by the FAR or GAO decisions, neither are binding on the Postal Service, and are not necessarily persuasive authority. Furthermore, the SPs & Ps do not give Noble any enforceable rights against the Postal Service as they are non-binding guidelines “intended for internal use only to assist the Postal Service in obtaining best value and to efficiently conduct its SCM functions. They are advisory and illustrative of approaches that may generally be used by Postal Service employees to conduct SCM activities, [and] are intended to provide for flexibility and discretion in their application to specific business situations.” See Introduction to the Postal Service SPs & Ps, p.1.