



BY EMAIL AND CERTIFIED MAIL

October 26, 2020

Thomas A. Pursley, Esq.  
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Email: [tpursley@lynchlynch.com](mailto:tpursley@lynchlynch.com)

Re: Supplier Disagreement Resolution Case No. SDR-20-TR-010  
Solicitation No. 300-211-20; Highway Contract Route (HCR) No. 028L9

Dear Mr. Pursley

This letter responds to the business disagreement (the "Disagreement") lodged on behalf of R&F Transportation Co., Inc. ("R&F") on September 29, 2020 with the Supplier Disagreement Resolution Official ("SDRO"). The Disagreement concerns the award of HCR 028L9 to 10 Roads. For the reasons set forth below, I deny R&F's Disagreement.

### **Background**

On August 5, 2020, R&F submitted an offer in response to the solicitation for HCR No. 028L9. On August 31, 2020, the contracting officer sent R&F a notice of unsuccessful offeror. On September 1, 2020, the contracting officer conducted a telephonic debriefing with R&F's President, Paul Rocha, in which the contracting officer addressed the reasons R&F was not awarded the contract.

On September 9, 2020, Mr. Rocha sent the contracting officer an email, in which he wrote: "I would like to state that I will be moving forward with formal disagreement with the award of contract 028L9. I will be sending the process to my lawyer and will be following the formal process." Mr. Rocha concluded his email, stating: "I will be meeting will [sic] my lawyer to go over the process and will be in contact with you."

On September 25, 2020, more than three weeks after the date of the debriefing, you emailed the contracting officer on behalf of R&F, stating that Mr. Rocha's above-referenced September 9 email constituted a business disagreement under 39 CFR Part 601 and that R&F was awaiting a decision on the disagreement.

On September 29, 2020, the contracting officer responded to your September 25 email with a letter resolving R&F's initial business disagreement. The contracting officer's resolution stated that: (i) Mr. Rocha's September 9 email was not a business disagreement but was instead "an announcement of a forthcoming business disagreement"; and (ii) to the extent your September 25 email served as a business disagreement, it was untimely.

On September 29, 2020 (the same day R&F received the contracting officer's initial disagreement resolution), R&F lodged the subject Disagreement with my office.

**Discussion**

The Postal Service's procedures for lodging an initial business disagreement with the contracting officer are set forth at 39 CFR 601.107. Regarding timeliness, those procedures require the supplier to lodge an initial disagreement with the responsible contracting officer within 10 days of the date the supplier received the notification of award or 10 days from the date of the debriefing, whichever is later. 39 CFR 601.107(b).

Here, the contracting officer conducted the debriefing on September 1, 2020. Therefore, to be timely, R&F would have had to file its initial disagreement by September 11, 2020. The Disagreement states that Mr. Rocha's September 9, 2020 email "plainly" constituted a written disagreement and was, therefore, timely. I disagree. In his email, Mr. Rocha refers, at multiple points, to the steps that he *will be* taking: "I *will be* moving forward with formal disagreement"; "I *will be* sending the process to my lawyer and *will be* following the formal process"; "I *will be* meeting will [sic] my lawyer to go over the process and *will be* in contact with you." This email plainly indicates that R&F would be consulting with its attorney and would be filing the initial disagreement after that consultation; it did not constitute a written disagreement itself. Moreover, to the extent your September 25 email was intended to serve as R&F's initial disagreement, it was untimely, as it was filed two weeks after the September 11 filing deadline.

**SDRO Decision**

For the reasons stated above, I affirm the contracting officer's determination that R&F's initial disagreement was untimely. Therefore, this Disagreement is denied. 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  
Manger, Policy, Compliance & Audit

Cc: Kisha Y. Jones, Contracting Officer