



December 29, 2017

BY E-MAIL AND CERTIFIED MAIL

Mr. Gordon L. Osaka  
Attorney At Law, P.C.  
1000 SW Broadway, Suite 940  
Portland, OR 97205-3061

Re: Supplier Disagreement Resolution No. SDR15-TR-03

Dear Mr. Osaka:

This letter responds to the submission that you made on behalf of LAPO, Inc. ("LAPO") with the Supplier Disagreement Resolution ("SDR") Official initially on August 3, 2015, and again on November 15, 2017, to request a status.

**Background:**

The Postal Service's IT organization was able to locate your original email within our data archives and confirmed on November 24, 2017, that your message of August 3, 2015, was received in the U. S. Postal Service SDRO email box on that date. Accordingly, the lodging of your disagreement with the SDRO was timely and review of your case will now proceed on the merits.

In your August 3, 2015 disagreement, you challenged the award of Highway Contract Routes ("HCRs") 97015 and 97023 to Lanier Brugh resulting from Solicitations No. 980-311-15 and 980-312-15 respectively. According to your disagreement, LAPO "timely submitted its bids, together with a cover letter summarizing its history as an existing USPS contractor and its specific ability to service these Routes with experienced drivers, all of whom drove these specific Routes for the last several years for Dill's Star Route, Inc., the then existing service provider." LAPO also included a reference letter from a Postal Service manager with knowledge of LAPO's performance history on the referenced routes. Your disagreement further stated that LAPO learned that the above referenced HCRs were awarded to Lanier Brugh, even though LAPO "provided the best value with a lower bid and drivers already familiar with 97015 and 97023." On behalf of LAPO, you are lodging this disagreement with the contracting officer's ("CO") resolution letter dated July 24, 2015, which was in response to your initial supplier disagreement lodged with the CO on June 25, 2015. You are requesting that the Postal Service review LAPO's zero technical scores and be given credit for past performance, technical evaluation, and supplier capability. Further, you are requesting that all bids be reassessed to determine if LAPO provided the Postal Service with best value, and, if so, transition HCRs 97015 and 97023 to LAPO.

It is still unclear how your 2015 email went unnoticed at the time, however, I am the current SDRO designated to resolve your disagreement. I have reviewed the entire solicitation package along with the submissions offered by all suppliers in response to Solicitations No. 980-311-15 and 980-312-15. I have determined that the Postal Service properly outlined the solicitation requirements and followed the performance evaluation criteria as set forth in the solicitation. I have further determined that the Postal Service thereby reached a fair and reasonable determination of best value contract awards, one to Lanier Brugh [97015], and one to Mail Carriers, Inc. [97023]. The basis for my determinations is set forth on the next page.

## **Basis for LAPO's SDRO Disagreement and SDRO Response:**

LAPO claims that the CO made a substantial technical evaluation error when he failed to give LAPO credit for its answers to past performance, technical evaluation, and supplier capability, all set forth in a timely submitted cover letter from LAPO, and in letter from a USPS manager of Transportation and Networks in the Portland, OR office. LAPO further claims that giving LAPO a technical score of zero and eliminating LAPO from the competition as being non responsive was a substantial technical error which requires immediate correction. In addition, LAPO disagrees with CO's assertions that an offer cannot rely solely on performance on other contracts in lieu of putting forth a well-written proposal.

I have reviewed the solicitation files and have found that the CO properly set forth the solicitation instructions to offerors that must be followed in response to HCRs 97015 and 97025, in the Solicitation Terms and Conditions, Issue Twelve, Part 3. Provisions. It defined a list of items that an offer must show at a minimum, including a technical description of the items being offered in sufficient detail to evaluate compliance with the requirements of the solicitation. Further, it addressed the performance evaluation factors that would be used in the evaluation of offers: Past Performance, Supplier Capability, and a statement that Price will have equal weight as performance factors. I agree with the CO that your cover letter and attached reference letter, on their own, do not provide sufficient detail and are not responsive to the technical evaluation factors. The Postal Service is not obligated to notify a supplier that their proposal is lacking. The burden rests with the supplier to ensure their proposal is responsive and complete. Further, the technical evaluation team may only assess each supplier by their written proposal against the requirements and instructions outlined in the solicitation package. By LAPO's own admission in the initial supplier disagreement letter of June 25, 2015, LAPO relied on the Postal Service knowing of its past performance and capabilities, and LAPO admitted that the specific, required information was not originally supplied. While LAPO subsequently supplied more specific responses with its initial supplier disagreement letter, this was after the solicitation proposal due date. Unfortunately, LAPO's failure to follow the solicitation instructions in a timely manner, meant the technical evaluation team did not have the required, nor complete proposal to evaluate LAPO's offer. This fact rendered LAPO's proposal as non-responsive, thereby eliminating it from the competition.

For your convenience and to reiterate the most relevant sections of the Solicitation instructions, the Terms and Conditions, Part 3. Provisions, 3.1 Instructions to Offerors are cited below for your reference.

### ***3.1.1 Provision 4-1 Standard Solicitation Provisions (February 2010) (Modified)***

a. *Submission of Offers.* Submit signed and dated offers to the office specified in this solicitation at or before the exact time specified on this solicitation. Offers may be submitted on Form 7405, *Order/Solicitation/Offer/Award*, letterhead stationary, or as otherwise specified in the solicitation. As a minimum offers must show:

...

(3) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. ...

...

(9) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items, and other references (including contract numbers, point of contact, with telephone numbers, and other relevant information); ....

(10) If the offer is not submitted on Form 7405, include a statement specifying the extent of agreement with all terms and conditions and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.

...

g. *Contract Award.* The Postal Service may evaluate offers and award a contract without discussions with offerors. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint. Discussions may be conducted if the Postal Service determines they are necessary. The Postal Service may reject any or all offers (if such action is in the best interest of the Postal Service),

accept other than the lowest offer, and waive informalities and minor irregularities in offers received.

### **3.1.2 Evaluation Information- Addendum to Provision 4-1**

...

#### **C. Supplier Specific Factors**

Upon request from the contracting officer, the supplier may be required to provide additional financial data or other information sufficient to establish the capability of the offeror. Failure to provide such information upon request may be cause for rejection of the offer. Any financial data submitted hereunder or any representation concerning facilities or financing will not form a part of any resulting contract.

#### **D. Past Performance Factors**

Past performance may be measured as demonstrated by performance on other Postal Service transportation contracts or non-postal transportation contracts performed on or with similar equipment.

### **3.1.3 Provision 4-2 Evaluation (March 2006) (Modified)**

a. *General.* The Postal Service will award a contract to the offeror whose offer is deemed to offer the Postal Service the best value, price, and other factors as specified. The following performance evaluation factors will be used in the evaluation of offers:

1. *Past Performance*
2. *Supplier Capability*

Price will have equal weight as performance factors.

LAPO also claims that it provided the best value with a lower bid and drivers already familiar with 97015 and 97023. As referenced in 3.1.3 Provision 4-2 Evaluation above, the Postal Service determined which offer was deemed to provide the best value with price having an equal weight as performance factors for these referenced solicitations. In this case, even if it is accurate that LAPO offered the lowest bids, it is not relevant since LAPO was eliminated from competition because its submissions did not meet the other performance requirements, which were clearly set forth in the solicitations.

#### **SDRO Decision:**

Thus, I conclude that the Postal Service properly outlined the Solicitation instructions, requirements and technical evaluation criteria. Other suppliers followed the process as outlined in the instructions, which allowed the technical evaluation team to reach a fair determination of best value contract award for the Postal Service. Unfortunately, LAPO failed to comply with the instructions included in the solicitation instructions. This error led to the technical evaluation team's appropriate determination that LAPO's technical proposal was non-responsive. Consequently, I cannot provide any relief, and LAPO's request to transition HCRs 97015 and 97023 must be denied.

I have obtained the required information, materials, and advice to render this decision. My decision is to deny your disagreement. In accordance with 39 C.F.R. 601.108(g), this is my final and binding resolution of this matter.

Sincerely,



Jennifer Beiro-Réveillé  
Supplier Disagreement Resolution Official

cc: Opal Dill, President of LAPO, Inc.