



January 17, 2018

BY E-MAIL AND CERTIFIED MAIL

Glenn L. Smith
Wheeler Upham, PC
Calder Plaza Building
250 Monroe Avenue N.W., Suite 100
Grand Rapids, MI 49503-2215

Re: Supplier Disagreement Resolution No. SDR-18-FA-01

Dear Mr. Smith:

This letter responds to the submission that you made on behalf of Nationwide Postal Management and Generational Investments (collectively referred to as "NPM") with the Supplier Disagreement Resolution ("SDR") Official. Your submission was dated December 12, 2017, and received by the Postal Service on the same date.

Background

You challenge the December 1, 2017 Contracting Officer's determination that NPM's objections to the selection of a new postal leased facility in Greensburg, Kentucky are not business disagreements under 39 C.F.R. §§ 601.107-108. You further assert that NPM was excluded from consideration and not provided a solicitation packet related to the U.S. Postal Service's planned acquisition of a leased property in Greensburg, thereby denying NPM due process.

I have reviewed the matter and provide the following response.

Basis for SDRO Response

The Postal Service's SDR process addresses supplier disagreements arising from the purchasing process to ensure that the Postal Service purchases products and services that represent best value. The regulations implementing the purchasing disagreement process and establishing the SDRO role provide that "The regulations contained in this part apply to all Postal Service acquisition of property (except real property) and services." 39 C.F.R. § 601.103. The disagreement process is further limited to exclude disputes (a) covered by the Contract Disputes Act, (b) concerning debarment, suspension, or ineligibility, and (c) arising out of nonrenewal of transportation projects. 39 C.F.R. § 601.107(a)(2).

Acquisition of real property has been defined to include acquisition of property by lease. See Handbook RE-1, Section 33. Moreover, in February 2016, the Postmaster General delegated to the Vice President, Facilities, the authority to develop policies and procedures unique to real estate, and defined "real estate" to include the "acquisition of real property (including improvements in real property), and any interests in real property by easement, license, purchase, lease, or exchange."

Postal regulations with respect to establishing and relocating Post Offices, as well as the process to provide input or otherwise challenge decisions related to such, can be found in 39 C.F.R. Part 241. That Part, however, neither gives disappointed property owners the right to file disagreements under Part 601, nor does it give the SDRO jurisdiction to review matters related to the establishment or relocation of Post Offices.

SDRO Decision.

I conclude that the Postal Service's actions taken in acquiring real property by lease are not covered by the disagreement process set forth in 39 C.F.R. §§ 107-108, and as a result, I am without authority or jurisdiction to entertain disagreements with postal leasing decisions.

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,

A handwritten signature in blue ink, appearing to read "Mark A. Guilfoil". The signature is fluid and cursive, with the first name "Mark" being the most prominent.

Mark A. Guilfoil
Supplier Disagreement Resolution Official
Manager
Supply Management Infrastructure