



October 5, 2018

BY EMAIL AND EXPRESS MAIL

Mr. Frank Arduino
Vice President of Operations
COP Transportation, LLC
270 West Street
Ludlow, MA 01056-1729

Re: Supplier Disagreement Resolution No. SDR-18-TR-04

Dear Mr. Arduino:

This letter responds to the disagreement that you filed on behalf of COP Transportation, LLC ("COP") with the Supplier Disagreement Resolution ("SDR") Official on July 30, 2018, in reference to Solicitation No. 300-155-18 for Highway Contract Route ("HCR") No. 010U5.

Background

Solicitation No. 300-155-18 for HCR No. 010U5 was issued on June 5, 2018. This requirement was for mail delivery service between the Springfield National Distribution Center and the Southern Connecticut Processing and Distribution Center beginning August 1, 2018. The solicitation required offerors to submit their proposals by June 22, 2018. COP submitted its proposal by the solicitation closing date and subsequently corresponded with the Postal Service via email on June 27, 2018, offering additional proposal information. After being notified that the Postal Service did not award COP the contract on July 9, 2018, COP timely filed its initial disagreement with the contracting officer on July 11, 2018. The contracting officer issued her initial resolution on July 18, 2018, which was received by COP on July 19, 2018. COP timely lodged this disagreement with the SDR Official on July 30, 2018.

The Disagreement

COP's disagreement objects to the Postal Service's decision to award the contract to a supplier at a higher price than that proposed by COP. In support of its objection, COP claims that the evaluation team should have contacted COP to hold discussions and allowed COP to expand upon and supplement its original technical proposal. Specifically, COP alleges that the evaluation team "never made an attempt to contact [COP] to gain a better understanding of [COP's] initial responses pertaining to the technical factors." Disagreement, p. 5.

I am the SDR Official designated to resolve this disagreement. I have jurisdiction pursuant to 39 CFR § 601.107 to hear disagreements that concern alleged improprieties in a solicitation process.

Basis for SDR Decision

At the outset, it is necessary to clarify that the Postal Service follows the Supplying Principles and Practices (SPs and Ps) as its purchasing guidelines. COP's disagreement makes numerous references to the Purchasing Manual (PM) and the Interim Internal Purchasing Guidelines (IIPGs) regarding "discussions" in procurements. Neither the PM nor the IIPGs currently apply to Postal

Service purchases. The PM has been revoked by regulation at 39 C.F.R. § 601.102. The IIPGs were replaced by the SPs and Ps over twelve years ago, on May 1, 2006. SPs and Ps, p. 1. Accordingly, COP's references to the PM and the IIPGs do not reflect the Postal Service's current purchasing procedures. The SPs and Ps provide policy treatment concerning discussions with potential suppliers at Section 2-37.

The solicitation's provisions stated that award would be based on best value, with technical factors weighed slightly more than price. Importantly, Provision 4-1(e) informed COP that the Postal Service could award the contract without discussions with an offeror. This provision provides in part:

"Contract Award. The Postal Service may evaluate proposals and award contracts without discussions with offerors. Therefore, the offeror's initial proposal should contain the offeror's best terms from a price and technical standpoint."

The language of Provisions 4-1 and 4-2 contradicts COP's argument that the Postal Service was required to hold discussions with COP in order to clarify deficiencies in its technical approach on the basis that it offered a lower price than the successful offeror. Therefore, I find no evidence that the evaluation of proposals or the decision not to seek additional proposal information were improper.

Discussion

The solicitation does not support COP's assertion that the contracting officer's evaluation of proposals was improper because she did not select the lowest priced offer. Provision 4-2 of the solicitation provides that the award decision would be based on best value and it specifically denoted the relative importance of technical factors to price, stating that "[t]echnical factors are slightly more important than price." Solicitation No. 300-155-18, Terms and Conditions, Provision 4-2, p. 11. Consistent with this best value approach and the relative importance designation, the Postal Service emphasized in Provision 4-2, Evaluation, that award would not necessarily be made to the offeror proposing the lowest price. The same provision also stated that the contracting officer would assess tradeoffs between technical proposals as to differences in anticipated performance and cost considerations for those differences.

Technical proposals received under this solicitation were evaluated by the Technical Evaluation Committee (TEC) on a scale of A through F, with an A ranking as greater than a B, with a B ranking higher than a C, etc. The consensus evaluated score for COP's technical proposal was evaluated as a D. The COP score was significantly lower than the score of the technical proposal submitted by the successful supplier. The solicitation file indicates that the contracting officer made the best value decision after assessing the strengths and weaknesses of the competing proposals, determining that the differences between COP's technical proposal and that of the successful supplier represented a significant advantage that justified the higher price. I find no evidence that this evaluation of proposals was improper.

As noted above, COP's assertion that the Postal Service should have contacted COP to gain a better understanding of COP's initial responses to the technical evaluation factors is inconsistent with the plain language of the solicitation. Provision 4-1 informed COP that the Postal Service could award contracts without discussions, directing offerors to include their "best terms from a price and **technical** standpoint" (emphasis added) in their initial proposal. The same provision stated that modifications to proposals received "after the exact time specified for receipt of proposals will not be considered unless determined to be in the best interest of the Postal Service."

COP asserts that the Postal Service was obligated to request further information from COP because of its low price and because it informed the Postal Service, via email on June 27, 2018, that it had additional information available. However, not only did Provision 4-1 expressly inform offerors that

the Postal Service could choose not to hold discussions with an offeror, but it further gave the Postal Service discretion over whether to consider proposal information provided after the proposal deadline. Because COP only offered additional information a week after the proposal deadline of June 22, 2018, the contacting officer had discretion to determine whether she would consider that information, as well as whether she wished to request further information.

Whether discussions would be beneficial in a particular competitive procurement, and with which parties, is a matter of judgment exercised by contacting officers. That process does not extend so far as to require, as is asserted within COP's disagreement, that the Postal Service afford suppliers the ability to provide proposal information at a later stage of the acquisition process, rather than with the submission of the initial proposal. Therefore, I find that the language of the solicitation makes clear that the Postal Service was not required to hold discussions with COP concerning its initial technical proposal and not required to consider additional information provided after the proposal deadline.

My review of the solicitation and evaluation documentation concludes that the Postal Service evaluated proposals in a manner consistent with the solicitation. The decision not to hold discussions or seek additional information from COP was appropriately a judgment of the contracting officer. The solicitation made clear that any decision to hold discussions was well within the contracting officer's discretion, and there is no evidence that she abused that discretion here.

SDR Decision

I conclude that there were no improprieties in the evaluation of COP's proposal received in response to Solicitation No. 300-155-18 or in the best value determination made by the contracting officer. Therefore, it is my decision to deny COP's disagreement. In accordance with 39 C.F.R. 601.108(g), this is my final and binding resolution of this matter.

Sincerely,



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