



January 9, 2019

BY EMAIL AND CERTIFIED MAIL

Kevin J. Maynard
Sarah B. Hansen
Wiley Rein, LLP
1776 K Street NW
Washington, DC 20006-2328

Subject: Supplier Disagreement Resolution No. SDR-19-VDIE-01

Dear Mr. Maynard/Ms. Hansen:

This letter responds to the business disagreement (the "Disagreement") that you lodged on behalf of your client, Mack Defense, LLC ("Mack") on Friday, November 2, 2018 with the Supplier Disagreement Resolution Official (the "SDRO"). The disagreement concerns Solicitation No. 3D-18-A-0094 for Cab Over Engine ("COE") and Cab Behind Engine ("CBE") Tractors (the "Solicitation").

Background

The United States Postal Service (the "Postal Service") issued the Solicitation on July 11, 2018. The Solicitation communicated the Postal Service's requirement to procure a total of 1,800 tractors (COEs and CBEs) with an option to purchase up to 500 additional units. Six amendments were issued to incorporate questions from offerors and the contracting officer's corresponding responses. Mack was responsive and submitted technical and pricing proposals for both the COE and CBE tractor types, in single and double axel configurations.

After learning that it was not awarded the contract(s), Mack requested a debriefing and it was provided by the contracting officer on October 3, 2018. On October 15, 2018, Mack sent a business disagreement to the Purchasing and Supply Management Specialist that issued the Solicitation lodging Mack's business disagreement. The Contracting Officer denied the initial disagreement on October 25, 2018 and informed you of Mack's right to contest the disagreement further with the SDRO. You timely lodged the subject disagreement with my office on November 2, 2018, within 10 days of first receipt of the notification of the contracting officer's resolution.

The Disagreement

Mack's business disagreement centers on its objection to the Postal Service's analysis of the total cost of ownership under the Solicitation. Specifically, Mack argues that the Postal Service's evaluation of proposals was flawed and not consistent with the terms of the Solicitation as concerns total cost of ownership (TCO) because the approach to analyzing TCO did not use differing operating costs and maintenance costs between offerors. Mack further argues that based on this error, the Postal Service's determination of best value under the acquisition was also flawed as determined by the contracting officer. Disagreement, page 2.

I am the current SDRO designated to resolve your disagreement. I have jurisdiction, pursuant to 39 CFR § 601.107(b) and 39 CFR § 601.108(a), to hear this disagreement. I have reviewed the matter and provide my decision herein.

Basis of SDRO Decision

At the outset, it is noted that the Postal Service follows the Supplying Principles and Practices (SPs and Ps) as its purchasing guidelines. These guidelines address Total Cost of Ownership directly in two separate sections.

First, "Section 1-7, Develop Preliminary TCO Estimates" of the SPs and Ps address the use of TCO for budget planning and purchasing purposes, and, further provides that it is not required to be performed for all purchases. It provides in part:

A TCO analysis will assist the identification of costs and risks associated with each life-cycle stage, their relationships, possible cost-reduction levers, and alternative products or services. A TCO analysis is especially helpful for more complex purchases; **it does not need to be performed for every purchase.** (Emphasis added.)

This section also provides that when performed, representatives from responsible Postal Service organizations collaborate to analyze TCO by sharing "specific knowledge of the subject under analysis and provid[ing] input to the cost modeling process."

Second, "Section 2-3, Update/Refine Total Cost of Ownership Analysis", addresses adjusting estimates and estimate quality:

When adjusting cost estimates, prior activities provide valuable input for cost estimation. Prior activities may exhibit cost needs across business areas and functions and may also identify external costs that may have a bearing on the TCO. The quality and detail of the input have a significant bearing on the resultant quality of the TCO estimate.

Taken together, the SPs and Ps emphasize that when performing TCO analysis, purchase teams should identify and consider costs and possible cost reduction levers or products which may have a result on TCO.

Regarding the Solicitation and your specific disagreement, the Solicitation addressed TCO directly in two sections as well. It is referenced first in the evaluation criteria description and second in an amendment comprised of offeror questions and Postal Service responses.

The evaluation criteria in the Solicitation specified that award of the contract would be based on best value. Importantly, the evaluation criteria explained that the best value determination would involve a comparison of "supplier specific evaluation factors with differences in price/Total Cost of Ownership (TCO)." It also provided that the Postal Service would consider acquisition, operating, and maintenance costs when analyzing TCO. The Solicitation specifically notified offerors that:

This may result in an award to a higher rated, higher priced supplier where the decision is consistent with the evaluation factors, and it is reasonably determined by the Contracting Officer that the technical superiority of the higher priced proposal outweighs the price/TCO difference. However, the Postal Service will not make an award at a significantly higher price/TCO to achieve slightly superior performance.

Furthermore, the Solicitation's evaluation criteria under Technical Approach included two sub-factors of Maintenance Economic Benefits and Operating Economic Benefits. The Maintenance Economic Benefits and Operating Economic Benefits sub-factors requested information about economical cost features of proposed tractors and validation of their value. It specifically provided that the Postal Service would evaluate the extent to which the offeror has validated the value of the maintenance and operating benefit.

The Postal Service referenced TCO directly again in Amendment 1 to the Solicitation. An offeror raised the following question under the solicitation of "what is required for the USPS to determine TCO, specifically Maintenance and Operating costs?" The contracting officer responded with a published answer (Question 6 of Amendment 1) to all participants as follows:

Suppliers are not required to provide a TCO analysis, however, within their proposal responses suppliers are encouraged to identify vehicle components that have the ability to reduce maintenance and operating cost over the life of the vehicle.

Discussion

Based on my review of the solicitation and evaluation documentation, including the interview of Technical Evaluation Committee (TEC) members, I conclude that the contracting officer and the TEC did perform a TCO analysis consistent with the Solicitation and, that the Postal Service evaluated proposals in a manner consistent with the Solicitation.

As contemplated by the SPs and Ps, during the budget planning and purchasing activities associated with the Solicitation, the purchasing team analyzed TCO. Representatives from Fleet Management and Vehicle Engineering collaborated with the contracting officer to do so. Those organizations had "specific knowledge" of the cost of operating and maintaining tractors in the conditions experienced by the Postal Service. See SPs and Ps Section 1-7.

The contract file and award recommendation memorandum reflect that Fleet Management and Vehicle Engineering representatives provided valuable input into the cost modeling process, relying on both proposal specific information from offerors as well as data obtained from systems used to track the maintenance and operating costs of the Postal Service's similar vehicles. The team used historic costs for parts and labor to estimate the maintenance component of total cost of ownership. Estimated fuel consumption and comparable cost per mile/fuel cost projections made up operational costs. This approach was consistent with guidance in the SPs and Ps which notes that "prior activities provide valuable input for cost estimation." See SPs and Ps Section 2-3.

Section 2-3 also emphasizes that the "quality and detail of the input have a significant bearing on the resultant quality of the TCO estimate." The contracting officer followed this guidance by relying on detailed data specific to Postal Service operating conditions for estimates.

Further, the Solicitation required offerors to describe not only the features of their proposed tractors that provide economic benefits during maintenance and operation, but also the extent to which benefits were validated. Requesting validation information and including maintenance and operating economic benefits as evaluation sub-factors demonstrated the importance of these features to the Postal Service. Additional clarification about the approach to addressing these benefits was provided in response to an offeror's question, encouraging offerors to identify features that may reduce maintenance and operating cost over the life of the vehicle.

Mack argues within the disagreement that the contracting officer failed to perform a meaningful TCO analysis as actual maintenance and operating cost values were used together with acquisition cost in deriving the total TCO value for each offeror. Disagreement, page 10. Critical to the decision here is that the Technical Evaluation Committee (TEC) did, in fact, review each offeror's proposal to determine if it could make quantifiable judgements as to cost benefit distinctions for the proposal from historical costs. The TEC determined it could not. The TEC did not adjust the operating and maintenance estimates during proposal evaluation because it did not find economic benefit information that was sufficiently unique, detailed, and verifiable to differentiate between estimates applied for each offeror. Regarding Mack's proposal, the TEC did not find [REDACTED] sufficient to differentiate the operating and maintenance estimates of the TCO applied to its proposals from those of other offerors.

Mack alleges that "the Postal Service failed to consider whether the particular model of tractor proposed by each offeror would result in different Operating or Maintenance costs compared to other offerors." Disagreement, page 11. This allegation is not accurate; the TEC did consider whether a particular proposal would result in different operating or maintenance costs. The TEC simply did not conclude that [REDACTED] Disagreement, page 12.

Your letter highlighted several features of Mack's proposal including [REDACTED] However, other offerors' proposals included similar features, [REDACTED]

Furthermore, the TEC determined that [REDACTED] supported the TEC's decision not to adjust the operating and maintenance costs applied to the price/TCO evaluation of competing proposals.

TCO is used routinely within other Postal Service vehicle acquisitions. A review of another vehicle acquisition and discussions with the TEC Chairperson provided that in other circumstances the Postal Service has in fact been able to assign monetary values to proposed TCO elements and changed the estimated costs for maintenance and operations within the TCO model. There, the benefit was clear and of a type which allowed it to be quantified. Accordingly, for purposes of this disagreement, I find that the evaluation of TCO was performed and made consistent as set forth in the Solicitation.

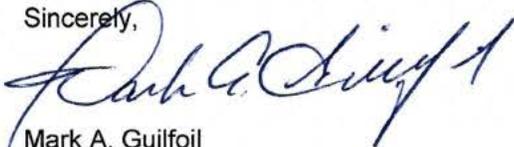
While a debriefing was requested and held with Mack subsequent to award, my review concludes that the Contracting Officer did not communicate important information concerning the Postal Service's TCO analysis during evaluation, namely that [REDACTED] Mack's identified benefits did receive scoring considerations within the technical evaluation. [REDACTED]

Finally, within the evaluation criteria description, the Postal Service stated that it would compare "differences in price/Total Cost of Ownership" with "supplier specific evaluation factors" when determining best value. Solicitation, Attachment 9. [REDACTED] The contracting officer appropriately made that comparison, [REDACTED] concluding that other offerors provided best value.

SDRO Decision

I conclude that there were no improprieties in the evaluation of proposals received in response to the solicitation or the best value determination made by the contracting officer. Therefore, it is my decision 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,



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

cc: M. Young, Contracting Officer