

November 24, 2006

Mr. Donald A. Tarkington
Novack and Macey, LLP
100 North Riverside Plaza
Chicago, Illinois 60606-1501

RE: Supplier Disagreement Resolution Case No. OM07ME-01
Disagreement Regarding Solicitation 3CMTEQ-06-A-0013

Dear Mr. Tarkington:

You lodged a disagreement on October 19 on behalf of Skyline Packaging Corporation (Skyline), as defined in 39 CFR Part 601, with respect to the award of solicitation no. 3CMTEQ-06-A-0013. The disagreement challenged the contract award for pallet boxes to International Paper and Rand Whitney. You believe that the bid process was fatally flawed and the contract award to the awardees was improper. You are requesting that I overturn the contracting officer's contract awards.

I have examined the disagreement lodged with me as well as your supporting documentation. I have also examined the solicitation and the contracting officer's administrative file. Based on my examination of the facts, your disagreement is denied.

According to your disagreement, the Postal Service notified Skyline on August 29 that its offer was not accepted. The letter stated that the contract was not awarded to a single supplier, but to two suppliers, International Paper and Randy Whitney. You state in your disagreement that the letter informed you that your proposal was deficient with respect to only two of the seven performance factors used to evaluate offers: (a) past performance and (b) ability to conduct electronic business. You further provided that the letter did not identify any other deficiencies in Skyline's offer and did not state that Skyline's pricing was a factor in the Postal Service's rejection. You assert that the two stated reasons for not accepting Skyline's offer are factually inaccurate. You also offer that Skyline's performance of Postal Service contracts has been exemplary and it has proven its ability to conduct business electronically. You also challenge the award on the grounds that the Postal Service's written policy, the participation of small women-owned businesses, should be encouraged; and thus, it is contrary to the Postal Service's own policy to refuse to award a contract or a portion thereof to a woman-owned and operated company, such as Skyline, based on an inconsequential price differential. You state that you made several inquiries with the contracting officer as to whether everything in the offer package was complete and in order. It is your understanding that the contracting officer assured Skyline that everything was included and that no information was missing. Therefore, you allege, there is no basis for the rejection of the award.

I must point out that a determination of best value to the Postal Service is based upon whether the Postal Service received the best value for the award of the pallet boxes. The solicitation stated that

the Postal Service would make award(s) to the suppliers proposing the best value considering price and performance evaluation factors. In making this determination, price would be considered more important than the performance evaluation factors. Based on the information in the solicitation and the offer provided by Skyline, it is my conclusion that the Postal Service did receive best value in this matter. Based on the technical evaluations, Skyline received six unacceptable ratings out of a total of seven. In the administrative file provided by the Contracting Officer, it was determined that the Postal Service awarded contracts to International Paper and Rand Whitney because the combined prices of these two suppliers offered the lowest price for the estimated three year purchase quantity of 5.2 million units annually (\$34,052,370.38) and both suppliers shared the highest adjectival technical evaluation score of "Acceptable". According to information in the administrative file, Skyline offered the highest price of all offerors (\$35,875,396.14) and had the lowest technical evaluation score "Unacceptable".

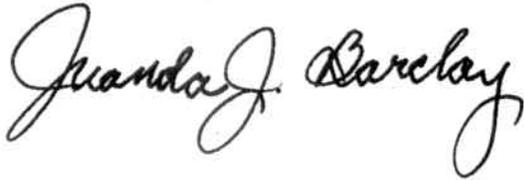
With respect to the past performance evaluation factor, Skyline's past performance on its only recent Postal Service contract was evaluated as poor. According to documentation in the administrative file, Skyline delivered mail tray sleeves that were improperly packaged (poor shrink wrapping not banded to pallets). Information provided stated that the glue on many of the sleeves did not hold, resulting in sleeves falling apart. Finally, the pallets were sometimes placed improperly on the truck trailers, making them difficult to unload. Based on this information and several comments in the file, Skyline received a low score on its most recent Postal contract award. As to Skyline's ability to conduct electronic business, Skyline asserted in its offer that it performed such electronic billings and orders on a previous Postal Service contract. However, according to the contracting officer, the contract in question uses a more complex eBuy system than the system used by Skyline on a previous Postal Service contract. Of considerable concern was that the Skyline proposal provided almost no information responsive to the evaluation factors. It consisted of a copy of the solicitation, pricing proposals, one page description of Skyline's management program and copies of the quality control programs of its two subcontractors.

Additionally, the Postal Service provides no preference in evaluations to small, women-owned or minority-owned businesses. As Skyline notes, the contract does include standard clause 3-2 "Participation of Small, Minority, and Woman-owned Businesses (May 2005). The Postal Service gives effect to this policy; however, once companies submit offers the Postal Service provides no preference and treats all proposals in the same manner. Moreover, the clause Skyline cites is directed towards contract performance and not award of the contract. Skyline also questions the award of multiple contracts under the solicitation. The solicitation contained in Provision 4-1 "Standard Solicitation Provisions (September 200)" specifically provides for the possibility of multiple awards at Section H "Multiple Awards".

Accordingly, I conclude that the award to International Paper and Rand Whitney was properly made by the contracting officer and it represented the best value to the Postal Service. Therefore your disagreement is denied and the award of a contract from solicitation no. 3CMTEQ-06-A-0013 stands.

This is the Postal Service's final decision on this disagreement regarding solicitation no. 3CMTEQ-06-A-0013 under 39 CFR 601.108(h).

Sincerely,

A handwritten signature in black ink that reads "Juanda J. Barclay". The signature is written in a cursive, flowing style.

Juanda J. Barclay, C.P.M., A.P.P.
USPS Supplier Ombudsman

cc: Jonathan Hirsch