

January 26, 2007

Mr. Stanley W. Seagle  
President  
Southwestern Logistics, Inc.  
525 Church Street  
Dublin, Virginia 24084

RE: Supplier Disagreement Resolution Case No. OM07MT-03  
Highway Contract Route (HCR) Number 24531

Dear Mr. Seagle:

Your letter of November 2, 2006 presented a disagreement as defined in 39 CFR Part 601 with respect to HCR No. 24531.

On October 10, 2006, Southwestern Logistics, Inc. (Southwestern) received notice that Powell Trucking, LLC was awarded HCR 24531. You were told that you were not awarded the contract because of your misuse of the Voyager fuel card (fuel card) and issues relative to your financial capability. You assert that you were never told you were violating any rules relative to the fuel card and now are being accused of bad performance and misuse of the card. I have reviewed the information you provided and additional data provided by the contracting officer. As explained below, your disagreement is denied.

On July 1, 2006, Southwestern was awarded temporary service HCR 245M1. The allocated fuel amount was included as part of the contract rather than by a separate fuel card. Concurrently, you were performing on HCR 240AA (and HCR 243L1 under the name Southwestern Skyways Inc), which had fuel cards and specific allotments. You elected to use your fuel cards from your other routes for fuel purchases in performance of HCR 245M1 even though the fuel was included in the contract. In August 2006, you received a phone call from the Area Office in Pittsburgh, PA questioning your large fuel consumption on HCR 240AA. You also had another conversation on this subject with the contracting officer. However, you continued to use the fuel card.

Based on the information submitted by you and the contracting officer, I have concluded that the award of HCR No. 24531 to Powell Trucking, LLC was properly made by the contracting officer and it represented the best value to the Postal Service. The solicitation indicated that price was considered more important than the performance evaluation factors. Also, Southwestern submitted a lower price than the awarded supplier. However, it is my determination that the contracting officer had legitimate concerns that would circumvent an award based on price. Your contention that the misuse of the fuel card was sanctioned by the contracting officer ignores the specific language in the contract and ignores the fact that Southwestern was receiving payment for fuel while using the fuel card from

another HCR. The Fuel Management Program clearly states that "The contracting officer will determine which method of compensation is appropriate for the subject contract". According to the information in the contract file, when the contracting officer included the fuel rate in the contract amount for HCR 245M1, it negated the need to issue a fuel card for the contract. By your own admission, you had a "good understanding" of how the mail contracting service works. Your assertion would lend credence to the fact that you knew that your contract on this service already included fuel cost yet you continued to use the fuel card even after having a conversation with the contracting officer regarding misappropriation of fuel. Moreover, the contracting officer did not condone this action as evidenced by the recovery of the fuel overpayment with the extension of the temporary service HCR 245M1.

You expressed concern that the CO accessed your personal credit report and used it to determine Southwestern's financial capability. The CO states it is customary to request a credit report on trucking companies that are dependent upon the assets of the owner. Given the misuse of the fuel card, a review of your financial stability was of particular concern. The CO's action in this regard was appropriate since judgements, bankruptcies and limited credit availability called your financial solvency into question.

Consequently, since Southwestern was using fuel cards from contract HCR 240AA or HCR 243L1 in addition to profiting from the fuel rate already included in the contract, the contracting officer was correct in including this action and financial capability in its best value determination for the award of HCR 24531.

Accordingly your disagreement is denied and the award of HCR No. 24531 stands.

This is the Postal Service's final decision on this disagreement regarding HCR No. 24531 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: Keith L. Harris