



May 6, 2011

Mr. Dennis J. Selvidio
G-W Management Services
11600 Nebel Street, Suite 202
Rockville, MD 20852-2538

RE: Supplier Disagreement Resolution Case No. SDR11FS-04
Solicitation No. 362575-10-A-0026

Dear Mr. Selvidio:

This responds to your supplier disagreement regarding U.S. Postal Service (USPS) solicitation 362575-10-A-0026, Indefinite Quantity Job Order Contract for the Cap Metro Area.

The referenced solicitation was issued for the award of one or more Indefinite Quantity Contracts (IQCs) for repair and alteration projects within the four geographic area(s) described in the solicitation. You lodged a disagreement with the Supplier Disagreement Resolution Official (SDRO) on March 2, 2011, with respect to the award of certain contracts under this solicitation. You were provided a debriefing by the USPS on March 3, 2011, and you subsequently lodged another disagreement with the SDRO on April 1, 2011, with respect to the same solicitation. I have examined the information provided in your disagreements, the information provided by the contracting officer and interested parties, and the information from the contract file. The issues raised in your disagreements are addressed below.

From your business disagreement filed March 2, 2011, you contested the award of contracts 362575-11-B-0069 (Area 1) and 362575-11-B-0079 (Area 3) to Sierra Construction, LLC. You requested that these contracts be terminated based upon your contention that Sierra Construction, LLC did not meet the minimum time in business standards of the solicitation.

As part of this solicitation, the USPS conducted a prequalification process to determine the most highly qualified suppliers utilizing the information provided in the Prequalification Qualification Statement. The solicitation stated that "only those contractors that provide superior Qualification Statements to the Postal Service will be prequalified." Offerors were directed to include in their submissions the minimum requirements as established in the evaluation criteria. The solicitation further stated, "If you do not meet the minimum requirements you will not be considered for prequalification." In the Contractor Qualification Statement, item three set forth the following minimum-years-in-business requirement:

"3. Minimum Years in Business: (Pass/Fail)

Your company must have been in the construction business, under the firm's present name, for a minimum of five (5) consecutive years. Provide information on Background Information Sheet under Tab 1, Background. See page 8."

A letter dated February 9, 2011, from the law offices of Glenn K. Garnes to Sharon Weber, USPS Facilities Contract Specialist, attached the Articles of Organization filed with the intention of creating a Maryland Limited Liability Company in the name of Sierra Construction, LLC. The Articles have a stamp indicating the fees paid and a date of 11-22-2006. This particular correspondence alleges that Sierra Construction, LLC was a successor to Sierra Construction, Inc. However, notwithstanding that allegation, in the same letter, Mr. Garnes also states that "Mr. Sutherland did not dissolve Sierra Construction, Inc." and that "[i]n 2009, Mr. Sutherland sold fifty percent of both Sierra Construction, Inc. and Sierra Construction, LLC to Joseph Liberto." During my review of information provided by the contracting officer I have determined that Sierra Construction, LLC and Sierra Construction, Inc. have separate tax identification numbers. Based on all of the above I have determined that Sierra Construction, LLC was formed as a separate business entity in November 2006 and does not meet the minimum requirement for being in the construction business under the firm's present name for a minimum of five consecutive years. Therefore, I am directing that the contracting officer terminate contracts 362575-11-B-0069 (Area 1) and 362575-11-B-0079 (Area 3) awarded to Sierra Construction, LLC. Additionally, I am directing the contracting officer to consult with the responsible official from the Facilities organization to determine if there are valid business needs that will require the award of replacement contracts for either Area 1 or Area 3. If it is necessary to award a contract for either of these areas, the contracting officer is directed to select the next qualified supplier from solicitation 362575-10-A-0026, who would have received an award had not Sierra Construction, LLC been awarded contracts. If there are no such qualified suppliers, then the contracting officer must issue a new solicitation. The contracting officer will complete this determination in a timely manner and inform me and all prequalified suppliers to solicitation 362575-10-A-0026 of his decision.

From your business disagreement filed March 2, 2011, you have requested that G-W Management Services (G-WMS) be issued contracts for Area 1 and Area 3; it is your contention that G-WMS should have been awarded contracts for Area 1 and Area 3 on the basis of your submitted prices for those areas. You further contend that contracts should have been awarded to the lowest cost value to the USPS. However, section A.302, "CONTRACT AWARD AND PROPOSAL EVALUATION (PROVISION F- 301) (MARCH 2006)," of the relevant solicitation states:

"Award will be made to the responsible offeror whose proposal contains the combination of Technical, Management Plan, and/or QSP, if required and cost-related factors that offer the best overall value to the Postal Service. Primary consideration will be given to the lowest evaluated prices. However, an award will not necessarily be made to the lowest offeror, if their Technical and Management Plan and/or QSP, if required, are determined to be significantly inferior."

It is clear from the language in the solicitation that contract award(s) would be made on a best value basis, not on the basis of lowest price. Although lowest evaluated price was a primary consideration, it was not the only consideration and did not constitute the basis of award. The contract file documentation shows that a total of eight contractors were recommended for potential awards across each of the four areas within Cap Metro. A review of this documentation shows that G-WMS had the lowest score on its management plan of any of the offerors. In fact, the G-WMS score for its management plan was significantly lower than the next highest rated offeror. I have determined that the contracting officer took into consideration G-WMS's score on its management plan and correctly applied the best value award methodology as stated in the solicitation. Accordingly, I am denying this portion of your disagreement.

Your business disagreement dated March 11, 2011 to the contracting officer was denied. You then filed a disagreement with the SDRO on April 1, 2011, and my response is below.

As a threshold matter, I find your business disagreement to be timely. In your disagreement, you request that the Prequalification Statement and Management Plan submitted by G-WMS be evaluated upon its merits. You also request that the evaluation of your proposal be reviewed, the score adjusted, and the contracting officer be directed to issue contracts to G-WMS for Areas 1, 3, and 4 of the solicitation.

Your prequalification statement was evaluated in accordance with the terms of the solicitation and as a result, your firm was prequalified. Regarding the evaluation of your proposal, specifically, your Management Plan: from my review of the contract file, it was the determination of the evaluation team that there were significant weaknesses in several areas of your Management Plan. As a result, and in comparison with the evaluation of the other proposals received, your firm was awarded a contract for Area 2. I believe this was the proper decision. I further believe that your proposal would require substantial revision in order to be evaluated otherwise and to thereby be in a position to be eligible under the terms of the solicitation for additional contract awards. I conclude that your proposal was evaluated fairly and in accordance with the solicitation. Therefore, this portion of your business disagreement is not adequately supported and is denied. In accordance with CFR 601.108(g), this is my final decision.

Sincerely,



Trent K. Ensley
USPS Supplier Disagreement Resolution Official

cc: Patrick Cain