

December 30, 2005

Mr. Baron Adelmann  
President  
Techniquex, LLC  
316 South Price Road  
Tempe, Arizona 85281-3194

RE: Supplier Disagreement Resolution Case No. OM06MF-03  
Disagreement Regarding Solicitation No. 482980-05-A-0444  
Project No. G38496; Upgrade Workroom Floor, East Texas P&DC

Dear Mr. Adelmann:

You presented a disagreement on November 14 with respect to the award of solicitation no. 482980-05-A-0444 for upgrades to the workroom floor at the East Texas Processing & Distribution Center in Tyler, Texas.

According to your disagreement, you wish to appeal the award of the prime contractor Chaney Cox Construction (CCC) for the above referenced solicitation. You stated in your disagreement that Techniquex, LLC (TNQ) submitted a bid as a subcontractor to CCC to provide the material and labor for the installation of the workroom floor per the specifications of the project. The contract was awarded to CCC as the low bidder, but with Flooring & Concrete Technologies as their subcontractor. TNQ protested the award on the grounds that Flooring & Concrete Technologies was not an approved applicator at the time of the bid submittal, and they had not done applications in this specific industry with the specified product for at least five years. According to you, TNQ met both of these requirements. In response to your protest, CCC replaced Flooring & Concrete Technologies as the flooring contractor. However, instead of CCC replacing Flooring & Concrete Technologies with TNQ, it substituted Macula, Inc. as the flooring contractor. Accordingly, you present a disagreement against the substitution of Macula as the subcontractor by the prime contractor.

In order for a person or organization to present a disagreement as defined in 39 CFR §601, he or she must have standing. The requirement for "standing" is satisfied if the person or organization is an actual or prospective offeror whose direct economic interests would be affected by the award of, or failure to award the contract. In this instance, you are not the proper party to present a disagreement before the Ombudsman. Due to the absence of standing in this case, I must dismiss your disagreement.

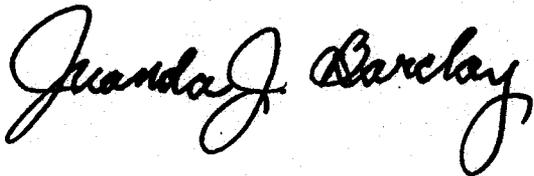
The Postal Service awarded solicitation no. 482980-05-A-0444 to the prime contractor. The privity of contract is between the prime contractor—CCC and the Postal Service. The prime contractor was awarded the contract and it is the responsibility of the prime contractor to select the appropriate subcontractors to complete the work specified.

You are lodging a disagreement on the grounds that CCC selected Macula, Inc. instead of you as the subcontractor. However, CCC has the ultimate decision to determine which subcontractor to select and for which work as long as it provides the Postal Service with best value.

Accordingly, I conclude that your disagreement is dismissed and the award of solicitation no. 482980-05-A-0444 was properly made by the contracting officer and it represented the best value to the Postal Service.

This is the Postal Service's final decision on this disagreement regarding solicitation no. 482980-05-A-0444 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 style with a large, looping initial "J".

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

cc: Kevin M. Gaughan