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STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



THE DIVISION OF PROCUREMENT SERVICES
DELBERT H. SINGLETON, JR.
DIVISION DIRECTOR
(803) 734-8018

MICHAEL B. SPICER
INFORMATION TECHNOLOGY MANAGEMENT OFFICER
(803) 737-0600
FAX: (803) 737-0639

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

Protest Decision

Matter of: Carolina International Trucks, Inc.

Case No.: 2017-115

Posting Date: November 1, 2016

Contracting Entity: State Fiscal Accountability Authority

Solicitation No.: 5400011744

Description: State Term Contract for Cab & Chassis

DIGEST

Protest alleging that the apparent successful bidder is not responsive is affirmed. Carolina International Trucks' (Carolina) letter of protest is included by reference. [Attachment 1]

AUTHORITY

The Chief Procurement Officer¹ conducted an administrative review pursuant to S.C. Code Ann. §11-35-4210(4). This decision is based on the evidence and applicable law and precedents.

¹ The Materials Management Officer delegated the administrative review of this protest to the Chief Procurement Officer for Information Technology.

BACKGROUND

<i>Event</i>	<i>Date</i>
Solicitation Issued	08/14/2016
Amendment One Issued	09/08/2016
Intent to Award Issued	10/13/2016
Protest Received	10/20/2016

ANALYSIS

The State Fiscal Accountability Authority (SFAA) issued this Invitation for Bids (IFB) on August 14, 2016, to establish a statewide term contract for the purchase of various vehicles to include a 22,000 LB GVWR Cab & Chassis with a Cummins or Duramax diesel engine. An Intent to Award was posted to Love Chevrolet Company (Love) on October 13, 2016. Carolina protests that the vehicle bid by Love is non-responsive to the requirement that the engine be manufactured by Cummins or Duramax as required by the solicitation as follows:

ENGINE: The truck engine (diesel) shall be a Cummins 6.7 Liter ISB, or Duramax 7.8 Liter rated at not less than 220 SAE gross horsepower and minimum 600 ft. lbs. torque.

[Solicitation, Page 32]

Love bid a Hino model 268. According to the manufacturer's published specifications (Attachment 2) the Hino model 268 comes with two engine options: a Hine J08E-WU and a Hino J08E-VB. Neither of these engines is manufactured by Cummins or Duramax. Love acknowledged in an email to the procurement officer that it had bid the Hine J08E-VB. (Attachment 3) If Love wished to bid an alternative engine manufacturer, it could have requested a modification of the requirement during the question and answer period.

Section 11-35-1520(10) requires that award be made to the lowest responsive and responsible bidder:

(10) Award. Unless there is a compelling reason to reject bids as prescribed by regulation of the board, notice of an award or an intended award of a contract to the lowest responsive and responsible bidders whose bid meets the requirements

set forth in the invitation for bids must be given by posting the notice at a location specified in the invitation for bids.

Section 11-35-1410(7) defines a responsive bidder as:

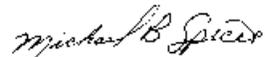
(7) "Responsive bidder or offeror" means a person who has submitted a bid or offer which conforms in all material aspects to the invitation for bids or request for proposals.

The requirement that the engine be manufactured by one of two manufacturers is a material requirement of the solicitation. Love's bid failed to meet a material requirement of the solicitation. .

DECISION

For the reasons stated above, the protest of Carolina International Trucks, Inc. is granted. The award to Love Chevrolet Company is cancelled and the State is directed proceed in accordance with the Code.

For the Materials Management Office



Michael B. Spicer
Chief Procurement Officer

Attachment 1



October 20, 2016

Michael Speakmon
Procurement Officer
State of South Carolina, MMO
1201 Main Street, Suite 600
Columbia, SC 29201

Dear Mr. Speakmon:

Carolina International Trucks would like to Protest the Intent to Award on item CC-5: Cab/Chassis 22,000 GVWR. We believe this item fails to meet the Engine specifications as required in Solicitation 5400011744 as outlined below.

The truck engine (diesel) shall be a Cummins 6.7 Liter ISB, or Duramax 7.8 Liter rated at not less than 220 SAE gross horsepower and minimum 600 ft. lbs. torque. The Intent to Award was given to Love Chevrolet Company on a Hino 268. The Hino 268 has two engine options, a Hino J08E-VC and a Hino J08E-VB. The only approved engines are Cummins or Duramax.

We ask that you please review the attached specs for the Hino 268 and advise on compliance to the engine as required.

We appreciate your consideration in this matter. Please do not hesitate to contact me for any additional information. Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy Downs".

Randy Downs
Sales Manager

Enclosure



Columbia • Charleston • Conway • Florence • Greenville • Greer



Attachment 2

2017

HINO 268



A Toyota Group Company

GVW: 25,950 LBS. BBC: 108" ENGINE MODEL: HINO J08E-VB 260HP 660 LB- FT TORQUE (AVAILABLE)
KEY VOCATIONS: MOVING, PICK-UP AND DELIVERY, SANITATION



HINO INSIGHT CONNECTED VEHICLE



YOUR VEHICLE IS CONNECTED, POWER ON.

At Hino we're changing the way we support our vehicles and customers so that your business is first. From the moment you take delivery of your HINO INSIGHT equipped connected vehicle, you're on the road to more uptime and lower operating costs. Combining Telematics, Remote Diagnostics and Case Management in one integrated platform, INSIGHT puts critical vehicle and driver management tools at your fingertips.

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2017

HINO 268



ENGINE

	STD	OPT
Model	Hino J08E-WU	Hino J08E-VB (N/A with 152" WB)
Type	Diesel 4 cycle, 6-cylinder in-line water-cooled, dry cylinder liners	
Fuel System	Common rail, direct injection type (Denso)	
Max. output (SAE Gross)	230hp at 2,500 rpm	260hp at 2,500 rpm
Max. torque (SAE Gross)	520 lb.-ft. at 1,500 rpm	660 lb.-ft. at 1,500 rpm
Engine displacement:	8L	
Bore and stroke:	4.41 x 5.12 in.	

WEIGHT CAPACITIES

Front axle	lbs.	10,000
Rear axle	lbs.	19,000
Front spring	lbs.	12,000
Rear Spring	lbs.	21,000

FRAME

Ladder type	Straight C Channel	
Width	in.	34
Yield strength	PSI	80,000
Resisting bending moment in.-lbs. (one side, no reinforcement)	152"WB	All Others 1,280,000 1,031,900

BRAKES

Service	Hydraulic system with disc brake for front and rear wheels	
Exhaust	Electric-pneumatic with valve-in exhaust pipe	
Parking	Lever control with cable, internal expanding drum type	

DIMENSIONS/WEIGHTS

	in. 152/G	175/J	187/L	205/M	217/P	235/R	253/T	271/V	
Wheelbase	in.	152/G	175/J	187/L	205/M	217/P	235/R	253/T	271/V
Cab to axle	in.	84.6	107.6	119.6	137.6	149.6	167.6	185.6	203.6
Frame height at front axle	in.	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0
Frame height at rear axle - Air susp. / Leaf susp.	in.	39.0 / 39.8	39.0 / 39.8	39.0 / 39.8	39.0 / 39.8	39.0 / 39.8	39.0 / 39.8	39.0 / 39.8	39.0 / 39.8
Rear overhang	in.	50.0	63.0	75.0	75.0	97.0	97.0	97.0	79.0
Std. chassis weight - Leaf susp./230hp	lbs.	9,920	9,865	9,920	10,030	10,140	10,185	10,220	10,285
Std. chassis weight - Air susp./230hp	lbs.	9,890	9,810	9,875	9,975	10,095	10,130	10,165	10,230
Std. chassis weight - Leaf susp./260hp	lbs.	N/A	9,910	9,975	10,095	10,205	10,250	10,295	10,360
Std. chassis weight - Air susp./260hp	lbs.	N/A	9,855	9,920	10,040	10,150	10,195	10,240	10,315

POWERTRAIN AND PERFORMANCE

GVW	25,950 lbs.	
GCWR*	26,000 lbs.	33,000 lbs.
Powertrain	STD	OPT
Max. speed mph**	75	75
Startability (% of grade)	45.5	41.1
Rear axle gear ratios	5.57	5.13
Transmission Model	Allison 2200 HS/RDS with Fuel Sense Basic	
Type	Six speed automatic	
Ratios	1st.	3.102
	2nd.	1.811
	3rd.	1.406
	4th.	1
	5th.	0.712
	6th.	0.61
	Rev.	4.492
		5.086

All specifications of the products are with normal manufacturing allowances and tolerances. Hino Motors Sales, U.S.A., Inc. reserves the right to alter specifications at any time without previous notice. *Condition is city delivery and 8% max grades **Max speed is limited by speed limiter HSS CON268 117

AXLE/SUSPENSION

Front axle	MFS-10 series reversed Elliot, "I" beam (oil lubricated)
Front spring	Taper-leaf spring, shock absorbers
Rear axle	R519-145, full floating, single reduction, single-speed, hypoid gearing
Rear spring	Semi-elliptic main
Rear Air	OPT-Air ride suspension - Hendrickson

ELECTRICAL EQUIPMENT

Batteries	STD-Two 12V parallel circuit, 650 CCA (GR 31 type) OPT-Three parallel circuit, 650 CCA (GR 31 type) OPT-Two parallel circuit AGM (925 CCA)
Alternator	STD-12V, 130 A, Delco (brush type) OPT-12V, 135 A (brushless), 180 A (brush type), 200 A (brush type)
Starter	Denso-12V, 4.8 kW
Cab audio	AM/FM/CD Player/MP3/Bluetooth

WHEELS/TIRES

6 Wheels	22.5 x 8.25 10-stud disc
Wheel style	Steel, powder coated
6 tires	STD-11R22.5-14(G) OPT-255/70R22.5-16(H) OPT-295/75R22.5-14 (G)
Tire pattern	Fr- Rib, Rr- All Season

CHASSIS EQUIPMENT

Fuel tank	STD-50 gallon OPT-Dual 50 gal./Single 70 gal./Single 95 gal.
DEF tank	4.7 gallon

POPULAR OPTIONAL EQUIPMENT (partial list)

Air ride suspension dump valve (electric), single & dual valve
Anti-siphon device insert in fuel tank
Back-up alarm
Cab paint, exterior - custom (factory)
Engine idle shutdown
Exhaust system - vertical stack type
Mirrors, fender mounted-chrome (both sides or passenger only)
Mirrors, outside rear view-chrome
Mirrors-power heated (available in chrome)
Power windows and door locks (available with keyless entry)
Programmable speed limit 65,70 mph
Rear helper spring-sub leaf type
Stabilizer bar, rear (leaf suspension only)
Wheels-polished aluminum or powder coated gray

SERVICES

5 YEAR WARRANTY

HINOCARE

24/7 ASSISTANCE HINOWATCH

INSIGHT

HINO WARRANTY - ENGINE	STD - 5 years/250,000 miles OPT - 7 years/150,000 miles
HINOWATCH	24/7 Roadside Assistance
HINOCARE	OPT - Preventive Care
HINO INSIGHT	Telematics by Telogis Remote Diagnostics Case Management

WWW.HINO.COM

Attachment 3

From: Donna Casey [<mailto:dcasey@loveauto.com>]
Sent: Friday, October 21, 2016 4:58 PM
To: Speakmon, Michael
Subject: FW: Award Protest, CC-5 to Love Chevrolet
Importance: High

Michael,

Hino designs and builds all their diesel engines for use in Hino Trucks. It is our understanding that the Hino Diesel Engine model J08E-VB at 260 hp@2500 rpm and 660 lb.-ft. @ 1,500 rpm exceeds the hp and torque required in the state spec. The Hino J08E-VB engine was approved by SCDOT during the last bid cycle. The Hino engine was not included in the bid specs. There is no Cummins engine option and the Duramax has not been in production since 2009.

We would be happy to discuss this further with you should you have any other question.

*Donna Casey
Love Chevrolet Fleet and Commercial
803-407-2275
877-877-8197*

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised November 2016)

The South Carolina Procurement Code, in Section 11-35-4210, subsection 6, states:

(6) Finality of Decision. A decision pursuant to subsection (4) is final and conclusive, unless fraudulent or unless a person adversely affected by the decision requests a further administrative review by the Procurement Review Panel pursuant to Section 11-35-4410(1) within ten days of posting of the decision in accordance with subsection (5). The request for review must be directed to the appropriate chief procurement officer, who shall forward the request to the panel or to the Procurement Review Panel, and must be in writing, setting forth the reasons for disagreement with the decision of the appropriate chief procurement officer. The person also may request a hearing before the Procurement Review Panel. The appropriate chief procurement officer and an affected governmental body shall have the opportunity to participate fully in a later review or appeal, administrative or judicial.

Copies of the Panel's decisions and other additional information regarding the protest process is available on the internet at the following web site: <http://procurement.sc.gov>

FILE BY CLOSE OF BUSINESS: Appeals must be filed by 5:00 PM, the close of business. *Protest of Palmetto Unilect, LLC*, Case No. 2004-6 (dismissing as untimely an appeal emailed prior to 5:00 PM but not received until after 5:00 PM); *Appeal of Pee Dee Regional Transportation Services, et al.*, Case No. 2007-1 (dismissing as untimely an appeal faxed to the CPO at 6:59 PM).

FILING FEE: Pursuant to Proviso 111.1 of the 2016 General Appropriations Act, "[r]equests for administrative review before the South Carolina Procurement Review Panel shall be accompanied by a filing fee of two hundred and fifty dollars (\$250.00), payable to the SC Procurement Review Panel. The panel is authorized to charge the party requesting an administrative review under the South Carolina Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6) and/or 11-35-4410...Withdrawal of an appeal will result in the filing fee being forfeited to the panel. If a party desiring to file an appeal is unable to pay the filing fee because of financial hardship, the party shall submit a completed Request for Filing Fee Waiver form at the same time the request for review is filed. The Request for Filing Fee Waiver form is attached to this Decision. If the filing fee is not waived, the party must pay the filing fee within fifteen days of the date of receipt of the order denying waiver of the filing fee. Requests for administrative review will not be accepted unless accompanied by the filing fee or a completed Request for Filing Fee Waiver form at the time of filing." PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

LEGAL REPRESENTATION: In order to prosecute an appeal before the Panel, business entities organized and registered as corporations, limited liability companies, and limited partnerships must be represented by a lawyer. Failure to obtain counsel will result in dismissal of your appeal. *Protest of Lighting Services*, Case No. 2002-10 (Proc. Rev. Panel Nov. 6, 2002) and *Protest of The Kardon Corporation*, Case No. 2002-13 (Proc. Rev. Panel Jan. 31, 2003); and *Protest of PC&C Enterprises, LLC*, Case No. 2012-1 (Proc. Rev. Panel April 2, 2012). However, individuals and those operating as an individual doing business under a trade name may proceed without counsel, if desired.

**South Carolina Procurement Review Panel
Request for Filing Fee Waiver
1205 Pendleton Street, Suite 473, Columbia, SC 29201**

Name of Requestor

Address

City

State

Zip

Business Phone

1. What is your/your company's monthly income? _____

2. What are your/your company's monthly expenses? _____

3. List any other circumstances which you think affect your/your company's ability to pay the filing fee:

To the best of my knowledge, the information above is true and accurate. I have made no attempt to misrepresent my/my company's financial condition. I hereby request that the filing fee for requesting administrative review be waived.

Sworn to before me this

_____ day of _____, 20_____

Notary Public of South Carolina

Requestor/Appellant

My Commission expires: _____

For official use only: _____ Fee Waived _____ Waiver Denied

Chairman or Vice Chairman, SC Procurement Review Panel

This _____ day of _____, 20_____
Columbia, South Carolina

NOTE: If your filing fee request is denied, you will be expected to pay the filing fee within fifteen (15) days of the date of receipt of the order denying the waiver.