



CHIEF PROCUREMENT OFFICE

Bill Grunloh, Department of Transportation - Highway Construction

February 20, 2014

Gary Eelman
Electro-Motive Diesel
9301 W. 55th Street
LaGrange, IL 60525

Re: Protest Concerning Multi-State Locomotive Procurement #14-1-DPIT

Dear Mr. Eelman,

The Illinois Procurement Code provides the Chief Procurement Officer shall establish rules to be followed in resolving protested solicitations and awards and contract controversies. 30 ILCS 500/20-75. All protests shall be in writing and filed with the CPO within 7 calendar days after the protester knows or should have known of the facts giving rise to the protest. Protests filed after the 7 calendar day period will not be considered. 44 ILL. ADMIN. CODE §6.420(a). The protest will be sustained only if it is determined by the CPO that the protest conclusively demonstrates by the preponderance of relevant information submitted that fraud, corruption or illegal acts have occurred that undermine the integrity of the procurement process. 44 ILL. ADMIN. CODE §6.440(b). If the protest is sustained, the remedies available are limited to cancellation or revision of the solicitation, or readvertisement of the solicitation. Relief available does not include award of the contract to the protester. 44 ILL. ADMIN. CODE §6.440(b). The decision of the CPO is final and conclusive unless clearly erroneous, arbitrary, capricious or contrary to law. 44 ILL. ADMIN. CODE §6.440(b).

Electro-Motive Diesel (EMD) submitted a Protest on the above-referenced procurement on February 3, 2014. The Illinois Department of Transportation provided a formal recommendation of denial of the protest (attached hereto) on February 18, 2014, recommending 3 independent grounds for denial:

- 1) EMD's protest alleges that Siemens Industry Inc. ("Siemens") lacks contractor responsibility which is not a valid ground for protest
- 2) EMD's protest was not filed in a timely manner; and
- 3) Assuming for the sake of argument that EMD's protest should not be denied on procedural grounds, the protest should be denied because the allegations do not conclusively demonstrate by the preponderance of relevant information that fraud, corruption or illegal acts have occurred that undermine the integrity of the procurement process.

I have reviewed the protest and the Department's recommendation. I agree with the Department that denial of the protest is warranted. The arguments relating to the timeliness of the protest submission pose a unique and debatable issue. Therefore, I am formally adopting the recommendation of the Department with respect to grounds for denial 1) and 3).

The Protest submitted by EMD is DENIED.

Sincerely,



Bill Grunloh

Chief Procurement Officer

Cc: Gretchen Tucka, State Purchasing Officer
Michael Forti, Chief Counsel, IDOT