



# *The County of El Dorado*

## *Chief Administrative Office*

*Gayle Erbe-Hamlin, Interim Chief Administrative Officer*

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### *Procurement & Contracts Division*

*Bonnie H. Rich, Manager of Procurement & Contracts*

*Phone (530)621-5830 Fax (530)295-2537*

July 7, 2008

GCR Tire Centers  
1401 Richards Boulevard  
Sacramento, California 95814  
Attn: Robert Koerner

Re: Protest to Bid #09-863-019  
West Slope Tires

Dear Mr. Koerner:

The Procurement and Contracts Division is in receipt of your letter of protest dated July 2, 2008, attached hereto. This letter addresses the issue of protest you have presented to our office for the subject Invitation to Bid. This response represents our evaluation of the issues you have raised. Award of the subject Invitation to Bid does not require Board of Supervisors approval. However, in the event the protest remains unresolved, Board of Supervisors Policy C-17, Section 5.6.5 (d) provides that the Purchasing Agent shall submit the protest to the Board of Supervisors for consideration. The procedure is detailed as follows:

#### 5.6.5 Protest Procedure

*The protest procedure is an extension of the formal bid process that provides recourse to bidders that wish to protest bid results or the method by which a bid request was processed. This procedure shall be utilized only after all informal methods have failed to reach a solution. A protestor must exhaust all administrative remedies with the County of El Dorado before pursuing any civil or administrative action with any other public agency.*

*If a bidder wishes to protest the award, the procedure shall be as follows:*

- (a) Within ten (10) business days from the date of public posting of the bid results on the procurement and contracts internet website, the protesting bidder shall submit a letter of protest to the Purchasing Agent, signed by an authorized representative of the bidder, specifically stating the reason(s) for the protest. The bidder must provide all relevant facts to support the protest, such as the law, rule, regulation or criteria on which the protest is based.*
- (b) If the Purchasing Agent finds the protest has merit, the Purchasing Agent may modify the award recommendation and notify all bidders of the decision.*

- (c) *Where a protest has been resolved or withdrawn the contract may be awarded in accordance with the Purchasing Agent's original recommendation.*
- (d) *In the event protest remains unresolved, the protest shall be submitted to the Board of Supervisors for consideration as a regular agenda item. All bidders shall be notified of the date on which the matter will be heard by the Board of Supervisors. All bidders may attend the Board meeting and address the Board at that time. In its discretion, the Board of Supervisors may determine to accept or reject any or all bids, to waive any informality or irregularities in a bid, or to make an award. The decision of the Board of Supervisors shall be final.*

**Background:** The bid response received from GCR Tire Centers was rejected as non-responsive for the following reasons:

1. Contrary to the specific instruction contained in the Invitation to Bid which provided that the Bidder was required to quote a "single percentage discount" applicable to the potential purchase of tires not specified in the Invitation to Bid, the subject bid was received with multiple discounts off of the manufacturer's suggested retail pricing. Page two of the Invitation to Bid, Requirements Section, item #3, states that:

*"The County will have the option to purchase additional tires not specified in the quotations schedule. Bidders must quote a single percentage discount off the manufacturer's suggested retail list price (MSRP) for these additional purchases."*

2. Contrary to the specific instruction contained within the Invitation to Bid, the subject bid included brand names not included in bid specifications. Page three, Specifications Section, item #1, states that:

*"All tires supplied by the awarded vendor must be Goodyear, and Cooper brand tires. No private or "house" brands will be accepted."*

**Protest:** By excluding other brands of tires at a more competitive price would not be considered a fair bid practice.

**Response to Protest:** Upon receipt of your letter dated June 12, 2008, attached, the Purchasing Agent contacted County Counsel for clarification. It was clarified that the Purchasing Agent may specify the brand of product to be bid upon so long as the selection of the brand does not unduly restrict the competitive process. In this case our office confirmed that the brand of product(s) bid were not limited to only authorized representatives of the manufacturer, and therefore was not unduly restrictive. The general terms and conditions of the bid states that:

*Brands:*

- (1) *The use of brand and/or manufacturer names in the bid specification is for descriptive purposes only. Unless otherwise specified, products of comparable quality and performance will be considered.*

The Invitation to Bid clearly indicated that the bid was brand specific and that no other brands would be accepted.

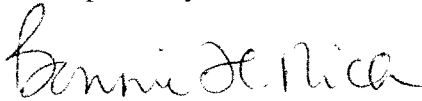
**Protest:** Different tires have different discounts and if the time would have been taken to see the attached sheet for the discounts.

**Response to Protest:** The content of the protest is unclear. It was observed that multiple discounts were listed for different types of tires. However, the bid required that bidders must submit a single discount structure for the purchase of additional tires not specified on the quotation schedule. It is not possible to provide an equal evaluation of bids submitted with some bidders offering multiple discounts versus other bidders submitting the required single discount structure. The single discount structure provides for more efficient internal processing of such purchases and is the method preferred by the County.

Based on our evaluation of all the information received, the Purchasing Agent has determined that the protest is without merit, and recommends that the award be made to the sole qualified respondent, Sierra Nevada Tire and Wheel of Placerville, California in accordance with the above analysis.

If GCR Tire Centers disagrees with the findings above, a written response to this letter must be received by the Purchasing Agent no later than Monday, July 14, 2008. Your response can be submitted electronically to [brich@co.el-dorado.ca.us](mailto:brich@co.el-dorado.ca.us).

Respectfully,



Bonnie H. Rich  
Manager of Procurement & Contracts

Cc: Gayle Erbe-Hamlin, Interim Chief Administrative Officer  
Michael Ciccozzi, Deputy County Counsel