

June 24, 2016

SENT VIA E-MAIL

Glorious Bazemore
Chief Procurement Officer
District of Columbia Public Schools
Office of Contracts and Acquisitions
1200 1st Street, NE 9th Floor
Washington, DC 20002

glorious.bazemore@dc.gov

Re: Status of Procurement for DCPS Food Service Management GAGA-2016-R-0036A

Dear Ms. Bazemore:

My law firm was recently retained to represent Genuine Foods Co. in connection with the above-referenced procurement. As you know, Genuine Foods responded to the District of Columbia Public Schools (“DCPS”) solicitation of proposals for food service management throughout D.C.’s public schools (the “Solicitation,” No. GAGA-2016-R-0036A). On behalf of Genuine Foods and its President and Chief Executive Officer, Mr. Jeffrey Mills, I write to express our increasing concern with DCPS’s perceptibly improper actions and inactions in its handling of this procurement and contacts with offerors, and to request clarification regarding the status of the procurement, including whether any contracts have been executed and whether Genuine Foods’ proposal is no longer under consideration.

By way of background, Mr. Mills wrote to you on April 14, 2016, asking about the status of Genuine Foods’ proposal, two days after you had indicated DCPS would issue a decision. **Attachment A.** After five weeks without a response, Mr. Mills followed up in writing on May 19, 2016, again asking for a status update, but this time after anecdotal evidence indicated DCPS had already begun making arrangements to proceed with other offerors, including Sodexo and DC Central Kitchen. **Attachment B.** The next day, you sent Genuine Foods a Notice of Non-Award, indicating DCPS had not awarded Genuine Foods any portion of the Solicitation. **Attachment C.**

Genuine Foods requested a debriefing the same day. **Attachment C.** After five days with no response, Mr. Mills again asked for a debriefing, on May 25. **Attachment D.** You responded that you would advise of the scheduled date for the debriefing during the week of May 30, 2016. **Attachment E.** But that week went by with no response regarding the debriefing.

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Mr. Mills again inquired about the debriefing on June 5, and you responded on June 6 that you would honor Genuine Foods' request, but did not provide a date. **Attachment F**.

The following day, on June 7, you sent a letter to Mr. Mills stating that DCPS had rescinded the Notice of Non-Award to Genuine Foods. **Attachment G**. Genuine Foods was pleased to receive this news appearing to confirm that its proposal was again under consideration for award. In order to confirm the status of the procurement, on June 8, Mr. Mills sent a letter to your office with several specific questions:

1. What precipitated the rescission notice?
2. If DCPS has rescinded the Notice of Non-Award, what was the basis for issuing the Notice of Non-Award in the first instance?
3. Relatedly, what is the status of the debriefing we have requested?
4. What is the status of the procurement? And what is the timeline now, in light of the rescission notice?
5. Is DCPS considering awarding Genuine Foods clusters identified in the solicitation?

Attachment G. Mr. Mills did not receive a response to these reasonable questions. What is more, within the last several days, Genuine Foods has again become aware of troubling and conflicting anecdotal reports regarding the procurement's status. Some indicate that DCPS executed contracts with Sodexo and DC Central Kitchen and that Genuine Foods is no longer under active consideration. Others indicate that DCPS has not finalized its choice of food service managers and no contracts have been executed.

Further complicating these issues is DCPS's admitted delay in making an award decision. Specifically, DCPS's inability or unwillingness to timely finalize its decision has rendered it a virtual certainty that any protest of the award, by any offeror, will proceed into the 2016-2017 school year. Yet, controlling procurement law and regulation provides that protestors are entitled to a stay of performance while the protest is pending.

Genuine Foods recognizes and supports the timely satisfaction of the Solicitation's requirements as critical to the welfare of the children in DC Public School system. However, DCPS has had months and months to make an award decision, and DCPS may not, through action or inaction, deprive any offeror of its right to challenge the propriety of an award or obtain meaningful relief. Suffice it to say that Genuine Foods will be prepared to emphasize this point, among others facts in the public record evidencing bias and impropriety, if circumstances arise leading to its filing of a protest.

We trust you would agree that time is of the essence; indeed, with each passing day, the need for an award decision becomes increasingly essential to the welfare of the children in the

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DC Public Schools, as well as to maintaining the integrity of this procurement process. Genuine Foods is in need of information from DCPS so that it may protect its rights and proceed accordingly.

If Genuine Foods remains under consideration, please advise immediately. In addition, please answer the questions identified above. Conversely, if Genuine Foods is no longer under consideration and DCPS has manifested an intent to award to other offerors, please advise immediately. If this is the case, Genuine Foods is entitled to a debriefing, and you may consider this letter a request for such debriefing consistent with controlling procurement rules and regulations.

We look forward to your response.

Regards,

Davis Wright Tremaine LLP



Jonathan A. DeMella

cc:

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