

GAO Dismisses Protest of USC-8

DECEMBER 18, 2015

On December 16, 2015, the United States Government Accountability Office dismissed all counts of a protest brought by TransAtlantic Lines, LLC, challenging the United States Transportation Command's procurement pursuant to HTC711-15-R-W002, the Universal Service Contract-8 (USC-8). [*TransAtlantic Lines, LLC, B-411846.2, Dec. 16, 2015.*](#) Under the USC-8 RFP, USTRANSCOM awarded multiple indefinite delivery, indefinite quantity (IDIQ) contracts under which offerors indicated fixed-rate prices for the shortest transit times between origin and destination for any of the trades and routes indicated in the RFP.

The protester challenged the RFP on the ground that its requirements for bidders to propose regularly scheduled ocean liner service or intermodal ground transportation excluded U.S.-flag carriers and therefore violated the Cargo Preference Act of 1904. Protester also challenged the RFP's application of cargo preference requirements at the task order level rather than on the IDIQ contract level as a violation of the preference for U.S.-flag carriers. GAO denied the protest on both grounds, finding that the RFP sufficiently preferred U.S.-flag vessels, subject to legitimate agency needs for through transportation. Finally, the protester challenged the agency's decision not to include a small business set-aside in USC-8, which GAO rejected on the ground that the Federal Acquisition Regulation grants contracting officers discretion whether to set aside for small business participation task orders placed under multiple-award contracts.

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