



DEFENSE CONTRACT MANAGEMENT AGENCY
MEDIUM TACTICAL VEHICLES
P. O. BOX 457
SEALY TEXAS 77474-0457

Reply to: DCMAG-MCSO

August 23, 2007

Ms Tammara Maiden
Vice President Contracts and
Supply Chain Management
Stewart & Stevenson
Tactical Vehicle Systems, LP
5000 I-10 West
Sealy, TX 77474

REFERENCES:

- (A) Corrective Action Plan (CAP) dated June 29, 2007
- (B) Updated CAP dated July 9, 2007 (E-Mail)
- (C) Updated CAP dated July 11, 2007 (E-Mail)
- (D) Updated CAP dated July 19, 2007
- (E) One-Time Waiver (OTW) Request dated July 19, 2007
- (F) One-Time Waiver (OTW) Request dated July 27, 2007
- (G) Updated CAP dated July 27, 2007
- (H) TVSLP Initiatives to Achieve and Remain Compliant dated August 6, 2007
- (I) Addendum to CAP and OTW dated August 13, 2007

Ms. Maiden,

Based on an evaluation by DCMA, I approve the Stewart & Stevenson Tactical Vehicle Systems, LP (TVSLP) CAP and OTW request referenced above and as noted below.

I have determined that TVSLP has an effective CAP in place for achieving compliance for items provided the Government by both TVSLP and its subcontractors in accordance with Section 842(b)(1)(A)(ii) of the FY 2007 John Warner National Defense Authorization Act. Continued approval of TVSLP's CAP is conditioned on the company complying with the initiatives it has established for ensuring its suppliers provide compliant product and meeting or showing adequate progress against all associated milestone dates. These initiatives are established in the CAP, OTW and the TVSLP letter dated August 6, 2007. Accordingly, and on a periodic basis, TVSLP will provide my office with information sufficient to measure compliance with the CAP and associated milestones.

The OTW request is only granted for the non-compliant alternators and snatch blocks that were conditionally accepted by the Government and provided by CE Niehoff and the Crosby Group respectively. The OTW does not apply to the non-compliant engine parts provided TVSLP by Caterpillar, Defense & Federal Products (Caterpillar) and Allison transmissions (Allison). For contracts awarded prior to November 16, 2006, TVSLP can present Family of Medium Tactical Vehicles (FMTVs) end items containing Caterpillar engines and Allison transmissions for conditional acceptance and withhold.

For purposes of this letter, and based on a determination by the buying command, the Program Year 5

Supplemental FMTVs are considered to be deliverables under a contract awarded on/after November 16, 2006. For contracts awarded on/after November 16, 2006, the CE Niehoff alternators fall under the *de minimis* exception per the Procuring Contracting Officer's letter dated July 2, 2007. Further, the Crosby Group will provide TVSLP will compliant snatch blocks for incorporation into the FMTVs end items by October 2007. In addition, I plan to accept FMTVs and allow payment for deliveries under new contracts based on "in process" DNADs submitted by Caterpillar for COTS engine parts and by TVSLP for the COTS Allison transmission. This acceptance on the basis of in process DNADs will be effective only upon my issuance of separate letters for specific deliveries.

Non-compliant parts that fall under an approved DNAD may be final accepted by the Government without withholds under contracts awarded at any time. Where non-compliant items fall within an "in process" DNAD, conditional acceptance and withhold must continue to be used for contracts awarded prior to November 16, 2006. If an approved DNAD is reduced in scope or canceled, contracts awarded while the DNAD was in effect continue their exception to the specialty metal restrictions. However, non-compliant parts on hand or on order that no longer fall within an approved DNAD will not be acceptable for use on contracts awarded after the DNAD's scope is reduced or canceled. If an in process DNAD is subsequently disapproved, the contractor must provide compliant product.

If, on contracts awarded before November 16, 2006, TVSLP finds itself in a situation where non-compliant parts are not subject to an approved or in process DNAD, another exception or an OTW, and the non-compliant parts have been or will be incorporated into items for delivery to the Government, TVSLP shall inform the Procuring Contracting Officer (PCO) and request conditional acceptance and withhold. TVSLP must also submit a separate CAP or a supplement to their approved broad-based CAP informing the Government how and when it will be able to provide compliant product. Such CAP may also provide market research conducted by TVSLP to support a DNAD request. If a similar situation occurs on a contract awarded on/after November 16, 2006, conditional acceptance and withhold will not be an available option. TVSLP must notify the PCO, and either provide a CAP with market research and documentation necessary to support a DNAD, or obtain compliant alternative parts.

In addition, and in accordance with Section 842(b)(1)(B) of the FY 2007 National Defense Authorization Act, TVSLP's request for an OTW has been approved and notice posted in FedBizOpps.gov on August 22, 2007. The approval is applicable to those contracts and non-compliant parts provided by CE Niehoff and the Crosby Group as identified by TVSLP and provided to me as part of its CAPs and OTW request. Additional contracts with the same or new non-compliant parts may be added to the approved OTW. For all contracts and parts subject to the OTW, the specialty metal must have been in a contractor's inventory at any level of the supply chain or incorporated into items that were produced, manufactured or assembled (PMA'd) in the United States before October 17, 2006. Purchase order dates are not relevant. TVSLP will identify the additional contracts and parts and provide this information in their periodic updates to me that are required for monitoring CAP milestones progress. TVSLP must also have a process in place for verifying that the parts included in its OTW request were in inventory or incorporated prior to October 17, 2006.

Congress has determined that the Department of Defense may relieve contractors of their contractual compliance with specialty metal restrictions. It must not be practical or economical to replace or substitute parts, the items must be produced, manufactured or assembled in the United States before October 17, 2006, final acceptance must occur after that date and before September 30, 2010, and the non-compliance must not be knowing or willful. Where those conditions are met, and the DCMA Executive Director or Deputy Executive Director for Contract Operations & Customer Relations approves the OTW, items subject to the OTW may be final accepted without further analysis or the application of consideration. However, if TVSLP fails to demonstrate compliance with its CAPs and/or fails to show adequate progress against the CAP milestones, I will consider disapproving the CAP, revoking the OTW approval, suspending the release of withholds, stopping the conditional acceptance of non-compliant items, and/or seeking other consideration that I deem appropriate.


Because the company's CAP is approved and the OTW granted, and because TVSLP has a process in place to verify that the non-compliant specialty metal was incorporated into items that were PMA'd in the United States before October 17, 2006, I will, within a few days, issue a separate letter authorizing release of withholds associated with conditional acceptances of non-compliant specialty metals. However, I will not authorize release of withholds associated with conditional acceptance of items falling under an "in process" DNAD until that DNAD is approved.

On a periodic basis, TVSLP will provide me with information sufficient for me to determine whether TVSLP is complying with the terms of its CAP and showing adequate progress implementing specific actions per established milestone dates. In addition, TVSLP will provide information showing how the company is verifying that items subject to the OTW comply with the pre-October 17, 2006 requirement.

In addition to the above, I would like to inform you that during DCMA's market research of Domestic Non-Availability Determinations (DNADs), it was noted that prime contractors are not taking actions to ensure that DPAS Rated Orders are flowed down to the lowest level in the supply chain. Because DPAS Rated Orders impact the availability of items containing specialty metal, please take steps to ensure that TVSLP is properly administering DPAS and its flow down provisions.

If you have any questions, or I can be of further assistance in this matter, please feel free to contact me at your earliest convenience.

Sincerely,



Virginia Baker
Administrative Contracting Officer
DCMA-Medium Tactical Vehicles
713 867 1422

cc:

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