# REVIEW OF
# FINANCE AND ADMINISTRATION
# SOLICITATION #S-04534210
# INVESTIGATIVE AND
# PURSUIT VEHICLE*S*


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## CONTENTS

**APPENDIX J 2005 CROWN VICTORIA BID EVALUATION/ DETERMINATION AND FINDING**

**APPENDIX K FAXED CONFIRMATION FROM COUNTRYSIDE MOTORS PROVIDING FUEL DATED OCTOBER 5, 2004**

**APPENDIX L DOCUMENTATION OF PROTEST - SOLICITATION NUMBER S-04534210**

**APPENDIX M EXPLANATION FROM FAC BUYER REGARDING PAUL MILLER FORD'S ABILITY TO LOWER PRICE**

**APPENDIX N FINANCE AND ADMINISTRATION CABINET RESPONSE**

**Acronym List**

| | |
|---|---|
| CMA | Contract Master Agreement |
| FAC | Finance and Administration Cabinet |
| FAP | Finance Administrative Policy |
| KAR | Kentucky Administrative Regulation |
| KRS | Kentucky Revised Statute |
| KSP | Kentucky State Police |
| KYTC | Kentucky Transportation Cabinet |
| KVE | Kentucky Vehicle Enforcement |
| MARS | Management Administrative Reporting System |
| OMPS | Office of Material and Procurement Services |
| PD | Police Department |
| RFP | Request for Proposal |

CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

September 6, 2005

Robbie Rudolph, Secretary
Finance and Administration Cabinet
703 Capitol Avenue, Room 383
Frankfort, KY 40601

Re: Review of Solicitation # S-04534210 for Investigative and Pursuit Vehicles

Dear Secretary Rudolph:

Alleged improprieties relative to the above solicitation were brought to the attention of this Office. As a result, our staff expanded normal audit work and reviewed this procurement. Numerous interviews were conducted and documents reviewed.

The review uncovered no evidence that the Finance and Administration Cabinet violated procurement polices. While the procurement actually saved the Commonwealth money, it did generate questions of fairness and a perception of unfair influence. Seven recommendations for improvement are included in our report.

The final report, enclosed herewith, includes recommendations and the response of the Finance and Administration Cabinet.

We appreciate the cooperation of your staff, staff from the Transportation Cabinet and the KY State Police.

Sincerely,

Crit Luallen

105 SEA HERO ROAD, SUITE 2
FRANKFORT, KY 40601-5404

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## Introduction

The Auditor of Public Accounts has reviewed the procurement related to the purchase of state pursuit and investigative vehicles. The procurement was protested pursuant to KRS 45A and represents a potential total expenditure of $4.5 million per year, with four yearly renewal options, in state expenditures over the term of the contract. In addition, there may be expenditures for hundreds of vehicles purchased by local law enforcement agencies. Our office expanded normal audit work related to this procurement due to the size of the contract and questions being raised about the procurement process. We conducted numerous interviews, including 3 bidding vendors, applicable personnel from the Kentucky State Police, Kentucky Transportation Cabinet and the Finance and Administrative Cabinet, as well as the regional Ford representative. We also thoroughly reviewed documents in the existing bid file, as well as additional information.

The Finance and Administration Cabinet (FAC) Office of Material and Procurement Services (OMPS) in accordance with Finance and Administration Policy (FAP) 111-20-00 is charged with purchasing certain vehicles for the state. This policy states:

> Except for agencies exempted by Kentucky Revised Statute or Kentucky Administrative Regulation, passenger vehicles shall be purchased by the Finance and Administration Cabinet, Division of Material and Procurement Services or by the Transportation Cabinet for the discharge of the authorized duties and functions of the various agencies of the state.

## Overview of the 2001-2004 Crown Victoria Contract.

FAC administers 11 contract master agreements for vehicles for the Commonwealth. These 11 contracts include 5 fleet contracts, 1 Ford Crown Victoria contract, 1 Ford Explorer contract, 1 Ford Excursion contract, 1 Honda Civic contract, 1 Toyota Prias contract and 1 Chevy Equinox contract. Paul Miller Ford held the Crown Victorias contract with the Commonwealth for the prior 4 years, and according to the original contract, had one more year renewal option. On June 30, 2004, FAC buyer sent Paul Miller Ford a renewal form asking if they were interested, pursuant to the terms of their existing contract, in extending the contract for an additional year. On July 8, 2004 Paul Miller Ford sent in the renewal form confirming the desire to renew the existing contract.

Later that same day, Paul Miller Ford was asked by the FAC buyer if it would lower the price. On July 15, 2004, Paul Miller Ford sent notification to the FAC buyer that it would not lower the price but would roll over the 2004 contract through September 14, 2005 with the pricing to remain the same as 2004. The Ford Taurus price had dropped during the past 4 years and the Commonwealth's Taurus vendor (Man O'War) reduced its contract amount each year.

**The 2005 Renewal Process.**

The FAC buyer, after seeking input from agency personnel at Kentucky State Police (KSP), Kentucky Vehicle Enforcement (KVE) and Kentucky Transportation Cabinet (KYTC) decided to not renew the contract and opened up the Crown Victoria contract for bid. The FAC buyer stated that the Countryside Ford Fleet/Commercial Manager advised that Countryside could sell Crown Victorias at a lower price than the current contractor. An email dated August 3, 2004 from FAC buyer to KSP, KVE and KYTC stated that FAC buyer had spoken to the Countryside Fleet/Commercial Manager a few days earlier about another contract and that the Countryside Fleet/Commercial Manager said Countryside could sell the 2005 Crown Victorias, as specified by FAC, for approximately $1,000 less than Paul Miller Ford was selling them for under the existing contract.

The FAC buyer also stated that if Countryside "has been buying these for Owensboro PD, Louisville PD and other PD's then we would be in the ball park for similar or better pricing . . . Let me know your thoughts on this." The Countryside Fleet/Commercial Manager did not recall having this conversation with FAC buyer. The FAC buyer also mentioned that at least two local officials told him earlier in the year that they could purchase the Crown Victorias cheaper elsewhere.

The FAC buyer contends that these conversations prompted FAC buyer to research this further. Upon learning of a potentially cheaper price and discussion with personnel from KSP, KVE and KYTC, the FAC buyer decided to not renew the contract with Paul Miller Ford and sent a letter to Paul Miller Ford stating such on August 26, 2004. There was no indication of any response from Paul Miller Ford to FAC's decision to rebid. This was the only vehicle contract master agreement that was not renewed by FAC during 2004.

In interviews, the FAC buyer, his supervisors, and representatives of the winning bidder, unequivocally stated that no one had contacted the FAC buyer to request to rebid the contract or to influence the final award. According to the FAC buyer for this contract, "buyers have the discretion to make the decision to renew based on agency input as well as their research and knowledge about the contract/commodity regarding renewing. Buyers may also discuss the renewal option with their supervisors for their guidance."

The FAC OMPS Branch Manager was aware of the buyer's concerns regarding pricing, but was only minimally involved. The branch manager does have final approval on issuing solicitations insofar as all solicitations have to be entered in MARS by the buyer and electronically approved by the branch manager. The branch manager said it is typical for the branch manager not to have extensive input on contracts such as this; that he has a lot of faith in his buyers; and that the former director practiced "decentralized" management. The branch manager noted that FAC awards approximately $1.5 billion in contracts per year. The FAC buyer stated that he did not get approval from his supervisor to cancel the existing contract and rebid. The branch manager stated that this contract was not considered out of the ordinary and that the director would only be involved in debarment, sole source contracts, and any unusual contracts.

The OMPS Director was not involved in this procurement.

Based on interviews with Countryside Ford and Paul Miller Ford, all Ford dealers bidding on a specific contract are quoted the same vehicle price by Ford Fleet Sales. Therefore, the only bid price variables are dealer profit, delivery cost, financing cost if state/local government does not pay timely and in this procurement, additional fuel costs. Based on our interviews, Ford Fleet was offering a lower price in 2005 than in 2001 for Crown Victorias. We looked at the Ford Taurus contract for years 2002 through 2005 and found that the vendor's base prices decreased each year. The 2005 Ford Taurus contract was $2,438 less than the 2002 Ford Taurus contract with the same vendor. The Crown Victoria vendor could have lowered their price upon renewal as the contract states. The vendor chose not to lower their price, which ultimately resulted in FAC exercising their option to rebid.

**The 2005 Solicitation for pursuit and investigative vehicles (Crown Victorias).**

On August 27, 2004, FAC issued solicitation S-04534210 for Ford 2005 Crown Victoria pursuit and investigative vehicles. This solicitation was for competitive sealed bidding pursuant to KRS 45A.080. The original closing date on this solicitation was September 14, 2004; however, several modifications were necessary.

The first modification occurred on September 10, 2004 and extended the closing date to September 21, 2004 to allow the Commonwealth time to clarify some of the specifications regarding the seats, radios, dome light and scissor jack. On September 14, 2004, modification #2 resulted in revised specifications based on vendor questions and comments with the closing date remaining September 21, 2004. On September 20, 2004, FAC extended the closing date to September 28, 2004, to allow the Commonwealth time to answer vendor questions regarding delivery, acceptance and payment. Modification #3 noted that changes were necessary due to a change in personnel at KSP. The final modification was made on September 22, 2004, to provide responses to vendor questions regarding the solicitation; the closing date remained September 28, 2004.

It should be noted that during all these modifications, no vendor asked about the gas requirement according to FAC buyer. In addition, vendors have 14 days from the issuance of a solicitation to protest a term or requirement of a solicitation; none did.

On September 28, 2004 bids were opened. Five responses were received but three bidders were disqualified because they were unable to meet the fuel requirement. As a result, the FAC buyer contacted the Ford Motor Company Government Account Manager for this region about the fuel fill requirement. The FAC buyer's email dated October 7, 2004 to Ford asked what was the "standard" level of gas for a 2005 Crown Victoria from the St. Thomas plant and what additional "fill" levels can be ordered. The email states:

> Again, what I'm trying to determine is that our specs referenced the cars coming in with ½ tank of fuel. From what (lady in your office) mentioned, it sounds like St. Thomas provides 7 gallons . . . how much can be specified on the actual order and what comes in the gas tank? This brings into play some

> "logistics" concerns for the winning dealer as all of our cars for KSP and Trans Fleet come right into Frankfort from Shelbyville's Distribution Center and bypass the dealer.

Ford's Government Account Manager responded to the FAC buyer on October 7, 2004 that there were only two fuel fill level programs—retail and fleet. In the fleet program, tanks are only partially filled by the assembly plant, which varies by model and is subject to change. He further stated:

> by virtue of being a fleet customer, the only way you can specify a full tank of fuel is through your bid specs and of course the selling dealer would be responsible for taking care of this. As you point out, your cars are drop-shipped (bypassing the dealership) to your location which presents some challenges to the selling dealer."

The Ford representative also stated that the current plant "fleet fuel fill" on a 2005 Crown Victoria is 5 gallons. The 2000 through 2005 Crown Victoria models come with a 19-gallon fuel tank capacity. In years 2000-2004, Crown Victoria models came with 13 gallons of fuel in the car from the plant.

The FAC buyer stated that the fuel requirement was included because he used the prior year specification and updated it for 2005 models using the "PC Carbook" and input from KSP, KVE and KYTC. PC Carbook is a desktop vehicle configurator for in-depth comparison, specification and pricing. It is the preeminent vehicle ordering, pricing, quoting and selling program in the industry and is used by over 15,000 dealerships, banks, credit unions, fleet administrators and lease companies.

The 2001 contract that Paul Miller Ford was awarded had a ½ tank fuel requirement. However, the official contract master agreement stated "Each vehicle must have no less than 13 gallons of fuel and be in first class operating condition at time of delivery." The bid specifications and evaluation/grading sheet for this showed that the fuel requirement was included and none of the bidders took exception to the requirement.

The 2001 Ford Taurus solicitation also had the ½ tank of fuel requirement. No vendors took exception to this; however, it is our understanding based on interviews, this requirement was not uniformly enforced by state agencies. It should also be noted that vendors would be able to comply with the state specification since the factory requirements did not conflict.

**Evaluating the responses to the 2005 solicitation.**

The FAC buyer was the sole grader of the Crown Victoria bid responses. The buyer stated that when bids come in, they are first checked for compliance with all the specifications. Those that did not meet all the specifications are disqualified. FAC does not notify disqualified vendors of the reason for disqualification.

Of the five respondents, there were three that took exception to the gas requirement, among other items, and therefore, were disqualified. Price was not evaluated for the disqualified bidders. According to the FAC buyer, the next step is to look at the price quotes from the remaining, qualified bidders. There were two models in this solicitation—pursuit and investigative. Vendors were instructed to bid on each vehicle, then the Commonwealth would evaluate price based on combined price of the two vehicles. Note that there were no extended prices evaluated, as the buyer states that he does not know how many vehicles will be purchased.

FAC, according to 200 KAR 5:306, has the discretion and authority to accept minor deviations if the purchasing officer determines that it will be in the Commonwealth's best interest to do so.

*FAC contacted Countryside Motors to verify fuel requirement.*

On September 28, 2004 bids were opened and there were three bidders in attendance. Bidder names and line item prices were read at this opening. Of the two bidders that were not disqualified, Countryside had the lowest combined price and delivery charge. FAC awarded 95 points for lowest combined price and 5 points for lowest delivery charge. On October 5, 2004, FAC buyer contacted Countryside to verify they could meet the gas requirement. Countryside faxed a handwritten note on October 7, 2004 that stated, "As fleet/commercial manager for Countryside, I will coordinate with Kentucky State Police shop the control of ½ tank of fuel. This will be done as vehicles arrive." Both the Countryside representative and the FAC buyer confirmed that there was no plan submitted or developed to meet this requirement at that time.

Even though Paul Miller Ford was disqualified for taking exception to gas, the FAC buyer contacted Paul Miller Ford requesting clarification on the price spread of $640 between pursuit and investigative models, but not the gas exception. FAC stated this pricing spread was significantly higher than other bidders. Paul Miller Ford had the lowest blended base price, excluding the gas specification.

**FAC awards contract to Countryside Motors.**

On October 21, 2004, FAC awarded the contract to Countryside Motors. The FAC buyer did not seek supervisor approval of the award of this contract.

*One Vendor files bid protest.*

One vendor filed a bid protest on November 1, 2004, which was within the 14 day time period set out in KRS 45A.285. The protest was in regard to the fuel requirement, optional equipment and delivery charges. The protest stated, "Based on the original bid tabulations, we requested from the Commonwealth of Kentucky, the determination of the bid was based solely on the availability to include a ½ tank of gas in each vehicle."

On November 23, 2004 FAC responded to this vendor and denied the protest. The letter stated:

> The purchasing officer verified with Countryside (at that point the apparent winner) that fuel would be provided as stated in the specifications. Countryside verified that it would provide a ½ tank of gas for those vehicles drop shipped directly from the plant as well as for those that will be shipped through their dealership for delivery by Countryside.

The vendor did not pursue this matter in Franklin Circuit Court.

*The fuel requirement contract specification was overlooked.*

KSP did not check for the ½ tank of fuel when the 2005 Crown Victorias arrived. KSP stated it was unaware of the fuel requirement until seeing an article in the newspaper about it. Riley Oil Company delivered 747 gallons of gas to the KSP garage underground tank at a cost of $1505.20 pursuant to an invoice dated June 23, 2005. This equates 4.5 gallons for the 166 vehicles that were drop shipped. Twenty vehicles that KSP ordered were delivered to Countryside by mistake and were filled by Countryside before delivery. KSP ordered a total of 186 vehicles from this contract.

KSP came up with the plan for Countryside to pay Riley Oil, KSP fuel supplier, for 4.5 gallons per vehicle after the contract award.

The FAC buyer advised that it is not, and was not, his responsibility to inspect the vehicles or check for fuel compliance; it was, and is, the responsibility of the purchasing agency. KSP noted they did not check for gas in the past, nor did they in the recent 2005 Crown Victoria deliveries. KYTC personnel advised that they have always checked gas levels for compliance with specifications. KSP did not raise issues when the 2005 cars were delivered with less fuel than the contract specified until they read about the issue in the newspaper. KYTC cars were delivered from the vendor with the correct amount of gas per contract.

The Ford Taurus RFP issued in 2000 also contained the ½ tank of fuel requirement. Based on the award evaluation spreadsheet, no vendor took exception to this requirement and therefore no venders were disqualified.

## Conclusions and Recommendations

Based upon interviews and a review of documents, law and policy, we conclude:

1) FAC did not violate its procurement policies.

2) By rebidding the contract, the Commonwealth saved money.

3) FAC's practices and procedures generated questions of fairness in this solicitation. Improvements should be made to insure confidence in the procurement process we therefore, recommend the following:

*FAC should evaluate policy.*

1. FAC should evaluate the policy that allows buyers to cancel and rebid contracts of this dollar magnitude without supervisory approval.

*FAC should review contract specifications and clarify the issue or cancel the bid and reissue the solicitation in situations where there are significant questions about a specification.*

2. FAC knew or should have known the factory could not meet the fuel requirement.

   If additional fuel (not provided by the factory) is a requirement in future procurements, FAC and the user agencies should verify that this requirement is being met. Since three venders noted that they could not meet the gas requirement and FAC knew that vehicles

that were drop shipped only came with 5 gallons, FAC should have asked the respondents how they would provide the fuel. The fuel requirement created confusion during the procurement process and the failure to verify compliance with the requirement after vehicle delivery raises a significant question over the importance of this requirement.

FAC should immediately review contract specifications and clarify the issue or cancel the bid and reissue the solicitation in situations where there are significant questions about a specification.

*FAC should communicate contractual requirements to agencies and remind agencies of their responsibility to monitor contact compliance.*

3. When FAC elected to contact Countryside regarding the fuel requirement, even though Countryside had not taken exception, it should have also verified how the requirement would be met, as FAC knew the factory could not comply. Countryside admitted that when they responded to FAC regarding the fuel requirement, they had no plan on how to fulfill the requirement. The matter was only resolved after media attention.

   FAC should have communicated to user agencies that the fuel requirement was their responsibility to enforce since this $10 per vehicle requirement had disqualified 3 of 5 bids.

   FAC should communicate contractual requirements to agencies and remind agencies of their responsibility to monitor contact compliance.

*FAC should reevaluate blended price methodology.*

4. FAC RFP price evaluation used a blended price for 2 different Crown Victoria models. Based on historical purchasing trends, pursuit vehicles are the largest volume by a significant margin. The blended evaluated price and individual unit price by Countryside were only marginally different. The Paul Miller Ford blended price was lower than Countryside by $11; however, the model prices were significantly different with the higher priced unit being the pursuit vehicle. Therefore, if Paul Miller Ford had been awarded the contract, the “extended price” cost to the state and local agencies purchasing pursuit vehicles would actually have been much higher than the Countryside price.

Although FAC currently states that they cannot guarantee an actual number of vehicle purchases, there is significant historical data that can be used to estimate the approximate value of the contract.

FAC use of the blended price can actually result in higher costs contingent on purchase volume by model. FAC should reevaluate this methodology in the future.

*FAC buyers should keep phone logs of all conversations regarding the bids or comply with the solicitation directive.*

5. The solicitation states that all contact should be via email or in writing; however, the FAC buyer noted that he did receive phone calls and answer questions from time to time and that a phone log was not kept. FAC buyers should keep phone logs of all conversations regarding the bids or comply with the solicitation directive.

*We recommend that the practice of rotating buyers be reinstated.*

6. At one time, OMPS rotated buyers but the practice has apparently been discontinued. We recommend that this practice be reinstated.

*FAC should give notice to losing bidders.*

7. FAC should notify all bidders of final agency action so losing bidders can avail themselves of appeal rights.

# APPENDIX A

Timeline

**TIMELINE**

| | |
|---|---|
| June 30, 2004 | Finance and Administration Cabinet (FAC) buyer sends renewal form to existing vendor-Paul Miller Ford for Ford Crown Victoria vehicles |
| | |
| July 8, 2004 | Paul Miller Ford sends renewal form agreeing to renew for the period of September 14, 2004 through September 14, 2005 |
| | |
| | FAC buyer sends email to Countryside representative regarding a different Countryside fleet contract renewal |
| | |
| | FAC buyer sends email to Paul Miller asking about pricing |
| | |
| July 15, 2004 | Paul Miller Ford sends information stating that they will roll over the 2004 contract thru September 14, 2005 with pricing to remain the same as 2004 |
| | |
| August 3, 2004 | FAC buyer emails Kentucky State Police (KSP), Kentucky Vehicle Enforcement (KVE), and Kentucky Transportation Cabinet (KYTC) information about the 2005 crown victoria renewal. Email states that FAC buyer is thinking about rebidding the 2005 Crown Victoria contract to get new competition and save money |
| | |
| August 5, 2004 | KYTC concurs to rebidding via email |
| | |
| August 26, 2004 | FAC buyer replies to Paul Miller Ford stating they will not renew the CMA and it will expire on September 14, 2004 |
| | |
| | FAC buyer sends email to Countryside Representative asking for a list of specs for the Ford 2005 Crown Vic pursuit vehicle and asks for an approximate cost |
| | |
| | FAC buyer sends email to KYTC, KSP and KVE personnel regarding not renewing the existing Contract Master Agreement (CMA) with Paul Miller Ford; says do not talk to Paul Miller reps about cancellation, don't inform other dealers of rebid, etc.; wants to have solicitation on web COB today |
| | |
| August 27, 2004 | FAC issued Solicitation |
| | |
| September 10, 2004 | Modification extended closing date to 9-21-04 |
| | |
| September 20, 2004 | Modification extending closing date to 9-28-04 |
| | |

| | |
|---|---|
| September 28, 2004 | Bids opened |
| | |
| October 5, 2004 | Request from FAC buyer to Countryside representative asking if Countryside Motors will provide ½ tank of fuel as stated in the specifications |
| | |
| October 6, 2004 | FAC buyer emailed Paul Miller Ford regarding their bid price—thinks they low-balled it. (Based on volume sales) |
| | |
| October 7, 2004 | Countryside representative faxed a response saying they will coordinate with Kentucky State Police shop the control of ½ tank of fuel; states that this will be done as vehicles arrive |
| | |
| October 7, 2004 | FAC buyer sends Ford Fleet Regional representative email about Fleet Fuel Fill. Ford Fleet represents that the current plant fleet fuel fill on a 2005 Crown Victoria is 5 gallons |
| | |
| October 21, 2004 | Contract awarded to Countryside Motors |
| | |
| November 1, 2004 | Formal complaint filed by 32 Ford regarding solicitation/award—issues include fuel, optional equipment, and delivery charges—best value ranking approach |
| | |
| November 5, 2004 | FAC buyer sends email to KYTC, KVE, KSP regarding vendor protest, says do not proceed with any further action |
| | |
| November 23, 2004 | FAC Attorney sends letter to 32 Ford denying their protest |
| | |
| November 29, 2004 | FAC buyer sends email to KSP, KYTC, KVE, etc about resolution of protests, states Countryside is official contract holder for the Crown Victorias |
| | |
| | |

**APPENDIX B**

Renewal Letter

July 8, 2004

Commonwealth of Kentucky
FINANCE AND ADMINISTRATION CABINET
**DEPARTMENT FOR ADMINISTRATION**
**Division of Material and Procurement Services**
Room 373 Capitol Annex
Frankfort, Kentucky 40601
(502) 564-4510
(502) 564-7209 Facsimile

ERNIE FLETCHER
Governor

ROBBIE RUDOLPH
Secretary

KEN HOUP
Commissioner

MIKE BURNSIDE
Director

Agency: Division of Material and Procurement Services (DMPS)
Date: June 30, 2004
Catalog Master Agreement: C-00249736
Commodity: KSP Pursuit and Investigative Vehicles (Ford Crown Victoria)
Buyer: Mike Gustafson CPPB

Vendor: Mr. B.J. Chadwell
Paul Miller Ford
975 New Circle Road
Lexington, KY 40505
Email: bjchadwell@paulmillerautoplex.com

The above referenced Catalog Master Agreement expires September 14, 2004. Pursuant to the terms of the contract, we may be able to initiate a one (1) year extension until September 14, 2005, all parties concurring. Please indicate your concurrence or refusal and return to the address on the letterhead, or send by fax to (502) 564-7209.
Note: Your response must be received **As Soon As Possible but No later Than July 9, 2004,**

✓ Yes, I agree to renew for the above period.

____ No, I do not wish to renew. (Please explain why.)

Authentication of contract extension concurrence and sworn statement regarding campaign finance laws:
I swear (or affirm), as required by KRS 45A.110 and 45A.115, under penalty of perjury as provided KRS 523.020, that neither I, individually, nor to the best of my knowledge and belief, the business entity which I represent in matters relating to this contract, has knowingly violated any provisions of the campaign finance laws of the Commonwealth of Kentucky, and that the renewal of this contract to me, individually, or to that business entity, will not violate any campaign finance laws of the Commonwealth.

B.J. Chadwell 7-8-04
Signature (Required) and Date

B.J. CHADWELL
Printed / Typed Name

**APPENDIX C**

Faxed Note Regarding Crown Victoria

Renewal from Paul Miller Ford to FAC Buyer

**Paul Miller Ford**
**Commercial Truck Sales**
975 New Circle Rd.
Lexington, KY 40505

1(800)320-4178
859-244-4277
859-983-5491 cell

**1 of 3 pages**

**To:** MIKE GUSTAFSON

**Phone:** 7-15-04 **Fax:** 502-564-7209

**Attn:** MIKE

**Re:** KSP CONTRACT RENEWAL

**Notes:** PAUL MILLER FORD AND FORD MOTOR COMPANY have agreed to rollover the 2004 Contract thru 9-14-05 with PRICING to remain the SAME AS 2004. Vehicles to be provided are 2005 CROWN VICTORIA Police INTERCEPTORS. This includes both PURSUIT and INVESTIGATIVE Vehicles

B. Mitchell

# APPENDIX D

Emails Regarding 2005 Crown Victoria Pursuit Vehicle Renewal Question

## Gustafson, Mike (Finance Administration)

**From:** Gustafson, Mike (Finance Administration)
**Sent:** Wednesday, August 11, 2004 8:33 AM
**To:** Craycraft, Keith (KSP); Blanton, Craig (KYTC); Moore, Billy (KSP); Kaiser, Jeff (KYTC); Carter, William E (KVE); Hughes, Greg (Finance Administration)
**Subject:** RE: 2005 Crown Victoria Pursuit Vehicle CMA Renewal Question

Reminder that the meeting is at Jeff Kaiser's at the T-1 Garage on Barrett Avenue at 10:00.

Please bring anything about the 2005 model Crown Vic that you may already have.

LT Carter is out of town so we can let him know (and to review) what we come up with afterwards.

Thanks,

Mike

Michael B. Gustafson, CPPB
Strategic Procurement Specialist II
Office of Material and Procurement Services (OMPS)
Finance and Administration Cabinet
Room 373 New Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601-3448

Phone: (502) 564-4510 (Ext. 269)
Fax: (502) 564-7209
E-Mail: mike.gustafson@ky.gov



—Original Message—
**From:** Gustafson, Mike (Finance Administration)
**Sent:** Thursday, August 05, 2004 2:21 PM
**To:** Covany, Jim (KYTC); Richerson, Jimmy (KSP)
**Cc:** Elliott, Shirley (KSP); West, Joe (KSP); Craycraft, Keith (KSP); Blanton, Craig (KYTC); Moore, Billy (KSP); Kaiser, Jeff (KYTC); Davis, Jamie (KYTC); Minter, Steve (KYTC); Hollan, Charles (KYTC); Carter, William E (KVE); Hughes, Greg (Finance Administration); Druen, Dan (KYTC)
**Subject:** RE: 2005 Crown Victoria Pursuit Vehicle CMA Renewal Question

Jim - I would like to set up a meeting for next Wed at 10:00 at the T-1 Garage for Fleet Mgmt (Jeff K), KSP (CPT Craycraft / Billy Moore), and MVE (LT Carter) (and anybody else that feels they need to be there) to look at the P71 pursuit and investigative options and decide what all we need. I think that we can do this successfully in 1 hour or less if all concerned parties are there and ready to offer up their wants and needs.

I'll then take this "printout" and use it as the specs in the rebid. This way the dealers bid EXACTLY what we are asking for since they use PC Carbook as well.

I can crank up the Solicitation and cut and paste the specs into it and have it on the web by the next Monday.

AGAIN - AT THIS POINT, PLEASE DO NOT SAY ANYTHING TO PAUL MILLER FORD OR ANY OTHER DEALER THAT WE MAY REBID. THIS IS CONFIDENTIAL AT THIS POINT.

Jeff - OK to use your office and PC Carbook to come to a common consensus??

Thanks,

Mike

Michael B. Gustafson, CPPB
Strategic Procurement Specialist II
Office of Material and Procurement Services (OMPS)
Finance and Administration Cabinet
Room 373 New Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601-3448

Phone: (502) 564-4510 (Ext. 269)
Fax: (502) 564-7209
E-Mail: mike.gustafson@ky.gov



----Original Message----
**From:** Covany, Jim (KYTC)
**Sent:** Thursday, August 05, 2004 1:43 PM
**To:** Gustafson, Mike (Finance Administration); Richerson, Jimmy (KSP)
**Cc:** Elliott, Shirley (KSP); West, Joe (KSP); Craycraft, Keith (KSP); Blanton, Craig (KYTC); Moore, Billy (KSP); Kaiser, Jeff (KYTC); Davis, Jamie (KYTC); Minter, Steve (KYTC); Hollan, Charles (KYTC); Carter, William E (KVE); Hughes, Greg (Finance Administration); Druen, Dan (KYTC)
**Subject:** RE: 2005 Crown Victoria Pursuit Vehicle CMA Renewal Question

Mike,

Fleet Management also recommends we rebid the C/Vs.

Thanks,
Jim

----Original Message----
**From:** Gustafson, Mike (Finance Administration)
**Sent:** Thursday, August 05, 2004 12:25 PM
**To:** Richerson, Jimmy (KSP)
**Cc:** Elliott, Shirley (KSP); West, Joe (KSP); Craycraft, Keith (KSP); Blanton, Craig (KYTC); Moore, Billy (KSP); Kaiser, Jeff (KYTC); Davis, Jamie (KYTC); Minter, Steve (KYTC); Hollan, Charles (KYTC); Covany, Jim (KYTC); Carter, William E (KVE); Hughes, Greg (Finance Administration)
**Subject:** RE: 2005 Crown Victoria Pursuit Vehicle CMA Renewal Question

Since KSP, MVE/KVE, and Fleet Mgmt are the big buyers of the Crown Vic I want to get input from all concerned. I don't want to leave anybody or anything out.

I agree that at looking at $750+ dollars (potential) savings per car amounts to something and that something would most likely carry over to the renewal years as well similar to what we save on the other fleet models now.

Should I / we rebid, I would like to do it somewhat soon, like the week after next, leave it on the web site for 2-3 weeks, and then award it in early Sept so orders could be placed soonest. AT THIS POINT, PLEASE DO NOT SAY ANYTHING TO PAUL MILLER FORD OR ANY OTHER DEALER THAT WE MAY REBID. THIS IS CONFIDENTIAL AT THIS POINT.

If OK, could I meet with KSP, MVE, and Fleet mid-week next week to work up the specs for a Crown Vic Pursuit vehicle and an Investigative model so all standard items and options are considered? Jeff Kaiser and I can use PC Carbook (not sure if they have the 2005 info as of yet though) and the Ford website to make sure we "build" it with the proper codes and equipment to ensure that you get what you need on our KY "standard" Pursuit and Investigative vehicles. Here's Ford's 2004 P71 Pursuit vehicle website - http://canada.fleet.ford.com/english/products_services/specialty_vehicles/2004_Police_Interceptor.asp It has the 2004 model on it yet but this is what they have.

Is it an assumption or guarantee that we'll keep the Investigative model on CMA? I think KSP wants to use it but what about the others??? Is there any other model that fits the "larger sedan" bill vs the Crown Vic? Do we want to consider any other models as competition for the Crown Vic Investigative model (Toyota Camry, Dodge Intrepid, Chevy or Dodge models?????

Let me know.

Many thanks,

Mike

Michael B. Gustafson, CPPB
Strategic Procurement Specialist II
Office of Material and Procurement Services (OMPS)
Finance and Administration Cabinet
Room 373 New Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601-3448

Phone: (502) 564-4510 (Ext. 269)
Fax: (502) 564-7209
E-Mail: mike.gustafson@ky.gov



-----Original Message-----
**From:** Richerson, Jimmy (KSP)
**Sent:** Thursday, August 05, 2004 9:21 AM
**To:** Gustafson, Mike (Finance Administration)

**Cc:** Elliott, Shirley (KSP); West, Joe (KSP)
**Subject:** RE: 2005 Crown Victoria Pursuit Vehicle CMA Renewal Question

Lt. Colonel West and Captain Craycraft have both reiterated that we definitely want to stay with the Crown Vic. Colonel West is concerned with any possible delays a CMA change might cause. We certainly understand trying to save money as long as we can keep our available fleet strength at a safe level.

---Original Message---
**From:** Elliott, Shirley (KSP)
**Sent:** Thursday, August 05, 2004 6:25 AM
**To:** Richerson, Jimmy (KSP)
**Cc:** Craycraft, Keith (KSP)
**Subject:** FW: 2005 Crown Victoria Pursuit Vehicle CMA Renewal Question
**Importance:** High

**Capt. Richerson:**

**I received this response back from Capt. Craycraft, Supply Branch, in regards to the e-mail below from Mike Gustafson, Dept. of Finance.**

**I thought you might want this e-mail response to assist you in our response back to Mike Gustafson, Dept. of Finance, on the 2005 Crown Victoria Pursuit Vehicle CMA Renewal Question.**

**Sincerely,**

**Shirley J. Elliott**
**Kentucky State Police**
**Financial/Grant Management Branch**
**(502) 695-6357**

---Original Message---
**From:** Craycraft, Keith (KSP)
**Sent:** Wednesday, August 04, 2004 4:29 PM
**To:** Elliott, Shirley (KSP)
**Subject:** RE: 2005 Crown Victoria Pursuit Vehicle CMA Renewal Question

We definitely want to stay with the crown vic. Also, make sure someone checks with Supply, specifically Billy Moore, to know what is needed on the cars we get.

---Original Message---
**From:** Elliott, Shirley (KSP)
**Sent:** Wednesday, August 04, 2004 6:10 AM
**To:** Richerson, Jimmy (KSP)
**Cc:** Wise, Madeline (KSP); West, Joe (KSP); Craycraft, Keith (KSP); Ousley, Beth (KSP); Cease, Sonny (KSP)
**Subject:** FW: 2005 Crown Victoria Pursuit Vehicle CMA Renewal Question
**Importance:** High

Capt. Richerson:

I received this e-mail from Mike Gustafson, Dept. of Finance.

Sincerely,

Shirley J. Elliott
Kentucky State Police
Financial/Grant Management Branch
(502) 695-6357

-----Original Message-----
**From:** Gustafson, Mike (Finance Administration)
**Sent:** Tuesday, August 03, 2004 4:31 PM
**To:** Craycraft, Keith (KSP); Carter, William E (KVE); Kaiser, Jeff (KYTC); Blanton, Craig (KYTC)
**Cc:** Hollan, Charles (KYTC); Covany, Jim (KYTC); Elliott, Shirley (KSP)
**Subject:** 2005 Crown Victoria Pursuit Vehicle CMA Renewal Question

All -

I have been thinking of the CMA Renewal with Paul Miller Ford for the 2005 Ford Crown Victoria Pursuit and Investigative vehicles for this coming fall.

I spoke to Michael Space from Countryside Ford in Lawrenceburg last Thursday and he said that he is getting the 2005 Crown Vic, as we spec'd it out initially, for around $1,000 less than Paul Miller is selling them. I have BJ Chadwell's (Paul Miller Ford's) signed Renewal Agreement form on my desk. He (BJ) said that the 2005's price would stay the same as the 2004's. (Not sure if he is overly "kind" to us or just squeezing a little more out of us. Pardon my doubting Thomas attitude today.) This is good if it's the best price to be had. (Not to mention delivery, floor mats, etc.)

My question is, I'm thinking of rebidding the 2005 model Crown Vic out to get some new competition into the area. Hopefully save some money as well. There is no guarantee that Ford will keep / raise / lower the price floor (really the base price less the fleet incentive.) What Ford has been doing on the other models is to keep the base vehicle price close to the initial pricing from back in 2001 and I believe they have been increasing the fleet incentive (discounts) to the dealer so that the final cost is still the same (relatively) to us, and the dealer still makes some money, and Ford keeps the market share.

The problem that I see (if we bid it out this month) is that Ford (and probably the other 2 mfrs as far as their pricing pollicies go) MAY raise their base price, give the dealer a minimal fleet incentive and in the end the 2005 may cost us as much or more than we are now paying. No guarantees in this.

I asked Mike Space if he had spec'd it the same way as ours and he said yes and it was about $1,000 less than Paul Miller's. I would think that if Mike Space has been buying these for Owensboro PD, Louisville PD, and other PD's, then we would be in the ball park for similar or better pricing.

I would also think that the delivery process (straight to KSP / Fleet) bypassing the dealership altogether would be a salesman's dream come true. If the orders get entered correctly and quickly, staggered delivery, would make it perfect I would think.

I'm looking at KSP's annual order of around 250 vehicles as some healthy savings if we can save $750 - $1,000 per car. Not to mention those that Fleet and KVE/MVE would get.

Let me know your thoughts on this. I can work with Jeff Kaiser at Fleet Mgmt to come up with the state's specs based on PC Carbook and the Ford P71 Crown Vic Police Interceptor as far as what items you want / need as standard items vs options (holes in the roof, radio suppression package, etc.) I'll attach the 2004

spreadsheet so you can see what I mean and what we're paying now.

PS. I guess it's a valid assumption that KSP is staying with the Crown Vics vs the Chevy Impala Police Package or the Dodge Intrepid Police Package or the new Magnum??

Thanks for your input.

Mike
<< File: C-00249736 Paul Miller Crown Vic Line Items Jun 2004.XLS >>

Michael B. Gustafson, CPPB
Strategic Procurement Specialist II
Office of Material and Procurement Services (OMPS)
Finance and Administration Cabinet
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E-Mail: mike.gustafson@ky.gov

**APPENDIX E**

August 26, 2004 Letter Reply Renewing the CMA for 2004 Crown Victoria

Commonwealth of Kentucky
FINANCE AND ADMINISTRATION CABINET
**OFFICE OF THE CONTROLLER**
**Office of Material and Procurement Services**
Room 373 Capitol Annex
Frankfort, Kentucky 40601
(502) 564-4510
(502) 564-7209 Facsimile

**ERNIE FLETCHER**
Governor

**ROBBIE RUDOLPH**
Secretary

**ED ROSS**
Controller

**MIKE BURNSIDE**
Director

August 26, 2004

Mr. B.J. Chadwell
Paul Miller Ford
975 New Circle Road
Lexington, KY 40505
Email: bjchadwell@paulmillerautoplex.com

Dear BJ:

This letter is to inform you that the Commonwealth has received your Renewal Agreement Form for Catalog Master Agreement CMA # C-00249736 for the 2004 Ford Crown Victoria Pursuit and Investigative Vehicles.

At this time, the Commonwealth believes it is in the best interest of the Commonwealth to rebid the 2005 Ford Crown Victoria Pursuit and Investigative Vehicles so we will not be renewing CMA C-00249736 for the upcoming 2005 model year. The CMA will be allowed to expire on September 14, 2004.

Paul Miller Ford is encouraged to submit a Bid Response to the upcoming Solicitation prior to its closing date.

Sincerely,

Mike Gustafson CPPB
Commonwealth Buyer

**APPENDIX F**

Email Regarding Ford 2005 Crown Victoria Renewal Status

## Gustafson, Mike (Finance Administration)

**From:** Gustafson, Mike (Finance Administration)
**Sent:** Thursday, August 26, 2004 12:56 PM
**To:** Kaiser, Jeff (KYTC); Blanton, Craig (KYTC); Covany, Jim (KYTC); Craycraft, Keith (KSP); Carter, William E (KVE)
**Cc:** Hollan, Charles (KYTC); Hughes, Greg (Finance Administration)
**Subject:** FW: Ford 2005 Crown Victoria Renewal Status

All -

I just emailed this and faxed the letter to BJ regarding not renewing the Crown Vic CMA for the upcoming 2005 model year.

Until I hear back from him (positively or negatively) please don't talk to him reference the details as to why I / we are canceling his CMA. Please direct him to me and I can provide him with the answers. I want to be careful nobody says anything that could possibly be used legally against us as a protest in canceling the CMA or in rebidding it out. Also, don't "inform" other Ford dealers that we are going out for rebid. I will email Don Dewar, the Regional Ford Rep, and ask him to mass email the KY Ford dealers that the Solicitation is on the website.

I am ready to get the new Solicitation out onto the website by COB today if all goes well. I have made the changes to the specs and think it is correct. I'll email the spec part to all for a final check once I get it released to the web. Don't worry, trust me.....

Thanks,

Mike

Michael B. Gustafson, CPPB
Strategic Procurement Specialist II
Office of Material and Procurement Services (OMPS)
Finance and Administration Cabinet
Room 373 New Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601-3448

Phone: (502) 564-4510 (Ext. 269)
Fax: (502) 564-7209
E-Mail: mike.gustafson@ky.gov



-----Original Message-----
**From:** Gustafson, Mike (Finance Administration)
**Sent:** Thursday, August 26, 2004 12:43 PM
**To:** 'bjchadwell@paulmillerautoplex.com'
**Subject:** Ford 2005 Crown Victoria Renewal Status

**APPENDIX G**

Excerpt from Solicitations Regarding Fuel

| | |
|---|---|
| Dual note horn | INCLUDED |
| **<<< EMISSIONS >>>** | INCLUDED |
| ___: STANDARD EMISSIONS | INCLUDED |
| **<<< ENGINE >>>** | INCLUDED |
| ___: 4.6L (281) SEFI OHC V8 ENGINE (STANDARD) | INCLUDED |
| **<<< TRANSMISSION >>>** | INCLUDED |
| ___: 4-SPEED AUTOMATIC TRANSMISSION W/OD (STANDARD) | INCLUDED |
| **<<< SERIES ORDER CODE >>>** | INCLUDED |
| 730A: POLICE PREP PKG ORDER CODE | INCLUDED |
| **<<< SEAT TYPE >>>** | INCLUDED |
| H_: CLOTH FRONT BUCKET SEATS/CLOTH REAR BENCH SEAT *CREDIT* | INCLUDED |
| **<<< PAINT >>>** | INCLUDED |
| ___: SOLID CLEARCOAT RPO PAINT (STD) | INCLUDED |
| IGNITION KEY 4 KEYS INCLUDED | INCLUDED |
| 1/2 TANK OF GAS AT DELIVERY | INCLUDED |
| 3-YEAR COMPLIMENTARY ROADSIDE ASSISTANCE | INCLUDED |
| **<<< ADDITIONAL OPTIONS >>>** | |

**NOTE TO DEALER – YOUR OPTIONAL BID RESPONSE PRICING IS IN THE PRICE COLUMN TO THE RIGHT FOR THE FOLLOWING ITEMS. THESE ITEMS MAY OR MAY NOT BE PURCHASED. THESE COSTS ARE NOT TO BE INCLUDED IN THE STANDARD MODEL AS LISTED ABOVE. THESE WILL BE PURCHASED ON A CASE BY CASE BASIS.**

| | |
|---|---|
| **<<< SAFETY >>>** | INCLUDED |
| Power 4-wheel anti-lock disc brakes | INCLUDED |
| Personal safety system- includes: driver & front passenger dual stage 2nd generation air bags, seat position/weight sensors | INCLUDED |
| Front / rear outboard 3-point active seat belts w/pretensioners | INCLUDED |
| Rear door child safety latches | INCLUDED |
| Emergency interior trunk release | INCLUDED |
| Brake-shift interlock | INCLUDED |
| Side door intrusion beams | INCLUDED |
| Dual note horn | INCLUDED |
| IGNITION KEY 4 KEYS INCLUDED | INCLUDED |
| 1/2 TANK OF GAS AT DELIVERY | INCLUDED |
| 3-YEAR COMPLIMENTARY ROADSIDE ASSISTANCE | INCLUDED |
| TRAINING SCHOOL | INCLUDED |
| SOLID CLEARCOAT RPO PAINT | INCLUDED |
| **<<< ADDITIONAL OPTIONS >>>** | |
| **NOTE TO DEALER – YOUR OPTIONAL BID RESPONSE PRICING IS IN THE PRICE COLUMN TO THE RIGHT FOR THE FOLLOWING ITEMS. THESE ITEMS MAY OR MAY NOT BE PURCHASED. THESE COSTS ARE NOT TO BE INCLUDED IN THE STANDARD MODEL AS LISTED ABOVE. THESE WILL BE PURCHASED ON A CASE BY CASE BASIS.** | |
| IGNITION KEY - 2 EACH (**CREDIT** FOR NOT GETTING 2 EXTRA KEYS) | -$38.00 |

**Section 16**
**Cancellation Clause – 30 Days Notice**
Either party may cancel this Contract by giving written notice, 30 (thirty) days prior to effective cancellation date.

**Section 17**
**Cancellation Clause – Non-performance**
The established contract shall be non-cancelable during its life except for mal-performance, non-performance, and substitution of commodity or other failure to comply on the part of the vendor. In the event of such action being necessitated, the contract shall be null and void upon receipt of a properly signed Modification from the Division of Material and Procurement Services canceling this Catalog Master Agreement.

**Section 18**
**Exception to Required Use of Contract**
The establishment of this Catalog Master Agreement is not intended to preclude the use of similar products when requested by the agency.

The Commonwealth of Kentucky reserves the right to contract for large requirements on the open market.

**Section 19**
**Service Performance**
All services performed under contract shall be in accordance with the terms and provisions of the contract. It will be the agency's responsibility to ensure that such services rendered are performed and are acceptable.

Major deviations of services performed will not be made without the written approval of the Division of Material and Procurement Services. Problems, which arise under any aspect of performance, should first be resolved between the vendor and the agency. Either party should refer in writing any such problems and/or disagreements that cannot be resolved to the Division of Material and Procurement Services for settlement.

**Section 20**
**Warranties**
The manufacturer's most favorable warranty offered to preferred customers shall apply to all items. A copy of such warranty shall be furnished to the agency upon delivery of the equipment or product.

**Section 21**
**Pre-Delivery**
Each vehicle (less those ordered by and delivered to the Kentucky State Police) must be completely serviced by the Vendor in accordance with the manufacturer's recommendations. The crankcase, differential and transmission must be filled to

capacity as is recommended by the manufacturer. Each vehicle must have no less than 13 gallons of fuel and be in first class operating condition at time of delivery.

**Section 22**
**Advertising**
Each unit shall be entirely free of any and all advertising attachments of the dealer such as decals, clips, license plate brackets or any other devices bearing vendor's name or logo.

**Section 23**
**Literature**
Each vehicle shall be accompanied by a Service Manual and Operator's Manual.

**Section 24**
**Delivery and acceptance**
All vehicles ordered for and delivered to the Kentucky State Police, shall be delivered FOB Frankfort, KY, to the final Frankfort destination site as specified on each order between the hours of 8:00 AM and 3:00 PM (prevailing time) weekdays only (Saturday, Sunday and State Holidays excluded). Vehicles will not be accepted unless complete with the following documents:

(1) Certificate of Origin.
(2) Service Manual.
(3) Owner's Manual.
(4) Warranty Certificate (if not included as part of Owner's Manual).
(5) Copy of pre-delivery service report.

Acceptance of a vehicle at the point and time of delivery shall not be interpreted as an indication by the State that the vehicle received is acceptable. Final acceptance and authorization for payment shall only be given after a thorough inspection has determined that the vehicle is in accordance with specifications.
Vendor is advised that in the event the delivered vehicle(s) differ in any respect from the specifications, then and in that event, payment to the vendor will be withheld until such time as vendor takes necessary corrective action. The Division of Material and Procurement Services (DMPS) may at its discretion refuse to accept delivery of the vehicle(s), in which case the vehicle(s) shall remain the property of the vendor and the State shall not be liable for payment of any nature. Should a representative of the State agree to accept any vehicle(s) with items of equipment or parts missing on the conditions that said missing items will be furnished by the vendor, then, and in that event, the vendor is to understand that payments for the vehicle(s) will be withheld until the missing items are delivered and installed.

**Section 25**
**Billing Procedure**

**APPENDIX H**

Email Inquiry from FAC Buyer to Paul Miller Ford

**Gustafson, Mike (Finance Administration)**

**To:** 'bjchadwell@paulmillerautoplex.com'
**Subject:** Request Clarification on the 2005 Ford Crown Victoria Solicitation (S-04534210) Bid Response

BJ -

In reviewing your Bid Response for the 2005 Ford Crown Victoria I noticed a trend in the other Vendor Bid Responses in that their Pursuit and Investigative vehicle bid price spreads were within $38 to $172 of each other. Yours was $640.

Request clarification in your method of determining your Bid Response pricing.

Thanks,

Mike

Michael B. Gustafson, CPPB
Strategic Procurement Specialist II
Office of Material and Procurement Services (OMPS)
Finance and Administration Cabinet
Room 373 New Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601-3448

Phone: (502) 564-4510 (Ext. 269)
Fax: (502) 564-7209
E-Mail: mike.gustafson@ky.gov

## Gustafson, Mike (Finance Administration)

**From:** B J Chadwell [bjchadwell@paulmillerautoplex.com]
**Sent:** Wednesday, October 06, 2004 11:51 AM
**To:** Mike.Gustafson@ky.gov
**Subject:** RE: Request Clarification on the 2005 Ford Crown Victoria Solicitation (S-04534210) Bid Response

MIKE, WE USED A COMBINATION PRICE OF THE INVESTIGATIVE VEHICLE AND THEPURSUIT VEHICLE TO OBTAIN THE LOWEST POSSIBLE PRICE FOR SALE AND DELIVERY OF THESE VEHICLES TO THE COMMONWEALTH. IF YOU HAVE ANY QUESTIONS FEEL FREE TO CALL ME. THANKS BJ

**APPENDIX I**

Email Regarding Fuel Fill Inquiry Dated October 7, 2004

From Ford Motor Company Representative

## Gustafson, Mike (Finance Administration)

**From:** Dewar, Don (D.C.) [ddewar2@ford.com]
**Sent:** Thursday, October 07, 2004 11:04 AM
**To:** Mike.Gustafson@ky.gov
**Subject:** RE: Fuel Fill Inquiry

Mike,
There are only two "options" when it comes to fuel fill levels and they are the "retail" program", which calls for dealers to fill tanks before delivery and the "fleet program" in which tanks are only partially filled by the assy plt (varies by model and is subject to change). By virtue of being a fleet customer, the only way you can specify a full tank of fuel, is through your bid specs and of course the selling dealer would be responsible for taking care of this. As you point out, your cars are drop-shipped (bypassing the dealership)to your location, which presents some challenges to the selling dealer, unless you simply have him reimburse the State for the difference between 13 gallons (KY Spec) and plant fill amt.

That being said, the current plant "fleet fuel fill" on a 2005 MY Crown Victoria is five (5) gallons. These charges appear on the vehicle's invoice and looking at an actual unit invoiced on 7/30/04, the total was $10.25, or $2.05/gallon. The actual charge/gallon varies and is based on the Natl Self-Service rate provided by AAA. A Crown Victoria's tank has a total capacity of 19 gallons, so by the time a unit reaches you, it would have less than 5 gallons, which wouldn't show much of a reading on the gauge.

FYI - Why don't we put more fuel in vehicles at the plant?
Due to increasingly stringent evaporative emissions requirements on vehicle's fuel systems, these system's have difficulty accomodating higher fill rates (20 gpm Vs/3-12 gpm @ service stations) typically used at assembly plants. As such, we've had to correspondly reduce fill rates, meaning less fuel delivered in the same amt of time.

Hope this helps,
Donald C. Dewar
Government Account Mgr.
North American Fleet, Lease and Remarketing Opns.
Phone: 317-841-3935 Ext. 674
Fax: 317-841-8363
Cell: 317-514-1363
ddewar2@ford.com

800 777-0455 ext. 674

-----Original Message-----
From: Mike.Gustafson@ky.gov [mailto:Mike.Gustafson@ky.gov]
Sent: Thursday, October 07, 2004 8:05 AM
To: Dewar, Don (D.C.)
Subject: RE: Fuel Fill Inquiry

Without saying to much, I'm still in the bid evaluation part of it.

What I was trying to determine is what "standard" level of gas does a 2005 Crown Vic come with (2 gallons ?) from the St Thomas plant, and also what optional "fill" levels can be ordered (if any), i..e 1/4 tank, 1/2 tank, 10 gallons, full tank, etc. I am assuming that at that point in production the gas man punches into the gas pump how many gallons for the car based on the vehicle order just like putting in a certain radio or wheel covers type thing - all by code.

Yesterday, I called 800 34-Fleet and spoke with Darlene several times. She was very helpful and called back a couple of times with more info.

Again, what I'm trying to determine is that our specs referenced the cars coming in with 1/2 tank of fuel. From what Darlene mentioned, it sounds like St Thomas provides 7 gallons at $1.86 or $9.30 total. I'm not really concerned (at this point) what it costs, just how much can be specified on

the actual order and what comes in in the gas tank. This brings into play some "logistics" concerns for the winning dealer as all of our cars for KSP and Trans Fleet come right into Frankfort from Shelbyville's Dist Center and bypass the dealer.

A side note, I spoke with Jeff Kaiser last week about the 40 or so new 2004 Crown Vics that they received over the last weeks. The fuel gauges were basically empty on the last 20 that Jeff had checked and had info on at that point. In answering his question as to how much fuel should they have had, I referred back to the original contract with Paul Miller and we had 13 gallons specified for the 2001 models. Our specs were carried over unless we were notified that Ford had made design changes (last year side airbags, 2002 - silicone hoses and worm clamps were standard from an optional cost.) Jeff and I had wondered how many cars had come in less than the 13 gallons over the last 4 years. I don't recall BJ telling or writing me saying that Ford was changing the levels at the end of a model year. In any case, then it would have been his responsibility to provide the difference in fuel levels. Our downfall was that perhaps all vehicle gas levels were not checked on our end during delivery over the last 4 years. That's one on us. In talking with Darlene, she said that Ford plants (or maybe models) individually decide on what the fuel levels are (and I guess what optional levels can be ordered if any.) She referenced an Electronic Field Communication (ESC 0400319) March 18, 2004, Model Year 2005 Full Tank of Fuel Program. Also mentioned a 690 Code. Don't want to get her into trouble.

If you can fax or email me something that I can use in my evaluation to help determine what level the car will come with and what additional (if any) amount the dealer may be responsible for, it'll help a great deal.

Many thanks,

Mike

Michael B. Gustafson, CPPB
Strategic Procurement Specialist II
Office of Material and Procurement Services (OMPS)
Finance and Administration Cabinet
Room 373 New Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601-3448

Phone: (502) 564-4510 (Ext. 269)
Fax: (502) 564-7209
E-Mail: mike.gustafson@ky.gov



-----Original Message-----
From: Dewar, Don (D.C.) [mailto:ddewar2@ford.com]
Sent: Wednesday, October 06, 2004 5:19 PM
To: Michael Gustafson (E-mail)
Subject: Fuel Fill Inquiry

Mike,
I have recvd a note from our Cust Info Ctr indicating that you were looking for factory fuel fill info. Because we only have this info in internal docs, they're not at liberty to distribute it externally.

How can I be of assistance?

Donald C. Dewar
Government Account Mgr.
North American Fleet, Lease and Remarketing Opns.
Phone: 317-841-3935 Ext. 674
Fax: 317-841-8363
Cell: 317-514-1363
ddewar2@ford.com

**APPENDIX J**

2005 Crown Victoria Bid Evaluation/Determination and Finding

Protest Recalculation

**2005 FORD CROWN VICTORIA CROWN VICTORIA PURSUIT AND INVESTIGATIVE VEHCILES**
**SOLICITATION S-04534210**
**BID EVALUATION / DETERMINATION AND FINDING**
**OCTOBER 7, 2004**

| SOLICITATION LINE ITEM | 32 FORD MERCURY BATAVIA, OH | PAUL MILLER FORD LEXINGTON, KY | COUNTRYSIDE MOTORS LAWRENCEBURG, KY | BILL COLLINS FORD LOUISVILLE, KY | BLOOMINGTON FORD BLOOMINGTON, IN |
|---|---|---|---|---|---|
| COMPLETED AND SIGNED SOLICITATION PAGE WITH CORRECT FEDERAL ID NUMBER (FEIN.) | YES<br>31-1285506<br>DAVE TRIMPE | YES<br>61-0481346<br>BJ CHADWELL<br>DANNY LYONS | YES<br>61-0960275<br>MICHAEL SPACE | YES<br>61-0703580<br>DON HATFIELD | YES<br>35-1745314<br>SAM ROBERTS |
| COMPLETED BIDDER INFORMATION SHEET(S) SIGNED BY AN AUTHORIZED REPRESENTATIVE. | YES | YES | YES | YES | YES |
| MODIFICATIONS SUBMITTED | MODS #1 - #4 | MOD #4 | MODS SOL, #2, & #4 | MODS #2 - #4 | MODS #1, #2, & #4 |
| CAMPAIGN FINACE REFORM FORM SUBMITTED AND SIGNED | YES | YES | YES | YES | YES |
| EEO FORMS SUBMITTED | NO | YES (CURRENT) | NONE (CURRENT) | | NO |
| EXCEPTIONS TAKEN | YES – 5 GALS FUEL FROM PLANT, NO POWER LUMBAR ON BENCH SEAT, NO CD PLAYER FOR PURSUIT | YES – FUEL LEVEL NOT GUARANTEED FROM PLANT, KEYS NOT PROGRAMMABLE (PER FORD), 58K RADIO NOT AVAILABLE, ESP | NONE TAKEN | NONE TAKEN | YES – FUEL LEVEL NOT GUARANTEED FROM PLANT, KEYS NOT PROGRAMMABLE (PER FORD), VINYL REAR SEAT |
| LINE ITEM #1 PURSUIT | NON RESPONSIVE | NON RESPONSIVE | RESPONSIVE | RESPONSIVE | NON RESPONSIVE |
| PRICE (95 POINTS POSSIBLE) | $19,939.00 | $20,208.00 | $19,939.00 | $19,940.36 | $20,065.25 |

| | | | | | |
|---|---|---|---|---|---|
| POINTS FOR PRICE | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| DELIVERY CHARGE (IN CALENDAR DAYS) (5 POINTS POSSIBLE) | $00.45 PER MILE | 0.00 | 0.00 | $1.00 PER MILE | $120 EACH FOR MULTIPLE VEHICLES - $140 EACH FOR SINGLE VEHICLE DELIVERY |
| POINTS FOR DELIVERY | 0.00 | 0.00 | **$00.01 / $00.01 = 1.00 X 5 POINTS = 5 POINTS** | **$00.01 / $01.00 = 00.01 X 5 POINTS = 0.05 POINTS** | 0.00 |
| TOTAL POINTS | 0.00 | 0.00 | **5.00 POINTS** | **0.50 POINTS** | 0.00 |
| | | | | | |
| | | | | | |
| LINE ITEM #2 INVESTIGATIVE | NON RESPONSIVE | NON RESPONSIVE | RESPONSIVE | RESPONSIVE | NON RESPONSIVE |
| PRICE (95 POINTS POSSIBLE) | $19,805.00 | $19,568.00 | $19,848.00 | $19,902.36 | $19,893.25 |
| POINTS FOR PRICE | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| DELIVERY CHARGE (5 POINTS POSSIBLE) | $00.45 PER MILE | 0.00 | 0.00 | $1.00 PER MILE | $120 - $140 CHARGE PER VEHICLE |
| POINTS FOR DELIVERY | 0.00 | 0.00 | **$00.01 / $00.01 = 1.00 X 5 POINTS = 5 POINTS** | **$00.01 / $01.00 = 00.01 X 5 POINTS = 0.05 POINTS** | 0.00 |
| LINE ITEM COMBINED PRICE | 0.00 | 0.00 | **$39,787.00** | **$39,842.72** | 0.00 |
| LINE ITEM COMBINED PRICE POINTS | 0.00 | 0.00 | **$39,787.00 / $39,787.00 = 1.00 X 95 POINTS = 95.00 POINTS** | $39,787.00 / $39,842.72 = 00.9986 X 95 POINTS = 94.867 POINTS | 0.00 |

| | | | | | |
|---|---|---|---|---|---|
| TOTAL POINTS | 0.00 | 0.00 | **95.00 + 5.00 = 100.00 POINTS** | 94.867 + 0.05 = 94.917 POINTS | 0.00 |
| **NEW EVALUATION** | $19,939 + $19,805 = $39,744 | $20,208 + $19,568 = $39,776 | $19,939 + $19,848 = $39,787 | $19,940.36 + $19,902.36 = $39,842.72 | $20,065.25 + $19,893.25 = $39,958.50 |
| **PRICE POINTS** | $39,744 / $39,744 = 1.00 x 95 = **95.00 Points** | $39,744 / $39,776 = 0.9991 x 95 = **94.9145 Points** | $39,744 / $39,787 = 0.9989 x 95 = **94.8955 Points** | $39,744 / $39,842.72 = 0.9975 x 95 = **94.7625 Points** | $39,744 / $39,958.50 = 0.9946 x 95 = **94.487 Points** |
| **DELIVERY CHARGE** | $00.45 per mile | 0.00 (No Charge) | 0.00 (No Charge) | $1.00 per mile | $140 per single vehicle |
| **DELIVERY CHARGE POINTS** | $0.45 / $0.45 = 1.00 X 5 points = **5 points** | **0.00 points** | **0.00 points** | $0.45 / $1.00 = 0.45 X 5 points = **2.25 points** | $0.45 / $140.00 = 0.0032 X 5 points = **0.016 points** |
| **RECOMPUTED WITH DELIVERY CHARGES** | **95.00 = 5.00 = 100.00** | 94.9145 + 0.00 = 94.9145 | **94.8955 + 0.00 = 94.8955** | 94.7625 / 2.25 = 97.0125 | 94.487 + 0.016 = 94.503 |

.001 ÷ .45 = .00222 X5 PTS = .0111 95 + .0111 = 95.011

94.9145 + 5.00 = 99.9145

94.8955 + 5.00 = 99.8955

Received a total of five (5) Bid Responses as listed above with Pricing and Delivery Charges. Three Vendors were considered Non Responsive due to not meeting the Specifications as outlined in Section 18 regarding the requirement for a 1/2 tank of fuel. The remaining 2 Vendors – Countryside Motors and Bill Collins Ford were evaluated on the best Value Criteria as stated in Section 30. Countryside Motors received the highest best Value score with a score of 100.00.

Recommendation – That the Catalog Master Agreement (CMA) be awarded to Countryside Motors for both Line Item #1 (Pursuit Vehicle) and Line Item #2 (Investigative Vehicle).

39,744 39,787

October 11, 2004

MICHAEL B. GUSTAFSON, CPPB
STRATEGIC PROCUREMENT SPECIALIST
DIVISION OF MATERIAL AND PROCUREMENT SERVICES
FINANCE AND ADMINISTRATION CABINET
ROOM 373 NEW CAPITOL ANNEX
702 CAPITOL AVENUE

Frankfort, KY 40601
Phone: (502) 564-4510 (Ext. 269)
Fax: (502) 564-7209
E-MAIL: MIKE.GUSTAFSON@KY.GOV

**APPENDIX K**

Faxed Confirmation from Countryside Motors Providing Fuel Dated October 5, 2004

Commonwealth of Kentucky
Office of Material and Procurement Services
Finance and Administration Cabinet
Office of the Controller
New Capitol Annex
702 Capitol Avenue Room 373
Frankfort, KY 40601

**OFFICE OF MATERIAL AND PROCUREMENT SERVICES**

# Fax

| | | | |
|---|---|---|---|
| **To:** | MIKE SPACE | **From:** | Mike Gustafson CPPB |
| **Company:** | | **Date:** | 10/5/04 |
| **Fax:** | (502) 839-4868 | **Fax:** | (502) 564 - 7209 |
| **Phone:** | (800) 777-6776 | **Phone:** | (502) 564 - 4510 (Ext. 269) |
| **Re:** | | **Pages:** | 4 |
| | | **Email:** | mike.gustafson@ky.gov |

☐ FYI ☐ Urgent ☐ For Review ☐ Please Comment ☒ Please Reply ☐ As Requested

ANOTHER POINT OF CLARIFICATION

THANKS

MIKE

AS FLEET/COMMERCIAL MANAGER FOR COUNTRYSIDE I (MICHAEL SPACE) WILL COORDINATE WITH KY. STATE POLICE SHOP THE CONTROL OF ½ TANK OF FUEL. THIS WILL BE DONE AS VEHICLES ARRIVE.

Michael Space
10.7.04

## Gustafson, Mike (Finance Administration)

**To:** 'spaceman1152@hotmail.com'
**Subject:** RE: 2005 Crown Vic Bid Response Request for Clarification

A follow on point of clarification.

Will Countryside Motors provide 1/2 tank of fuel as stated in the specifications?

Thanks,

Mike

Michael B. Gustafson, CPPB
Strategic Procurement Specialist II
Office of Material and Procurement Services (OMPS)
Finance and Administration Cabinet
Room 373 New Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601-3448

Phone: (502) 564-4510 (Ext. 269)
Fax: (502) 564-7209
E-Mail: mike.gustafson@ky.gov



-----Original Message-----
From: Gustafson, Mike (Finance Administration)
Sent: Wednesday, October 06, 2004 10:28 AM
To: 'spaceman1152@hotmail.com'
Subject: 2005 Crown Vic Bid Response Request for Clarification

Michael -

Can you clarify that the vehicles will come with a 1/2 tank of fuel and if the KSP Gray Paint (W2823) is included in your base price of $19,939?

Many thanks,

Mike

Michael B. Gustafson, CPPB
Strategic Procurement Specialist II
Office of Material and Procurement Services (OMPS)
Finance and Administration Cabinet
Room 373 New Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601-3448

Phone: (502) 564-4510 (Ext. 269)
Fax: (502) 564-7209

E-Mail: mike.gustafson@ky.gov



-----Original Message-----
From: Gustafson, Mike (Finance Administration)
Sent: Tuesday, September 28, 2004 9:32 AM
To: 'spaceman1152@hotmail.com'
Subject: FW: Please Check Line Item

Michael B. Gustafson, CPPB
Strategic Procurement Specialist II
Office of Material and Procurement Services (OMPS)
Finance and Administration Cabinet
Room 373 New Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601-3448

Phone: (502) 564-4510 (Ext. 269)
Fax: (502) 564-7209
E-Mail: mike.gustafson@ky.gov



-----Original Message-----
From: Gustafson, Mike (Finance Administration)
Sent: Friday, September 10, 2004 4:50 PM
To: 'spaceman1152@hotmail.com'
Subject: FW: Please Check Line Item

Michael -

Will you please check price for Line Item 1002.08? It has N/A so not sure if price isn't available or there should be something in it.

I changed the deliveries charges from N/C to 0.00 so the system would take it. Has to be a ## in it.

I can finish the CMA mod Monday AM and then it'll be ready to go once approved.

Will mail a copy of Mod when all finished.

I did the Explorer and 1 ton Box truck Mods this afternoon. Copies in the mail.

Thanks,

Mike

Michael B. Gustafson, CPPB
Strategic Procurement Specialist II
Office of Material and Procurement Services (OMPS)
Finance and Administration Cabinet
Room 373 New Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601-3448

Phone: (502) 564-4510 (Ext. 269)
Fax: (502) 564-7209
E-Mail: mike.gustafson@ky.gov



-----Original Message-----
From: michael space [mailto:spaceman1152@hotmail.com]
Sent: Thursday, September 09, 2004 2:51 PM
To: Mike.Gustafson@ky.gov
Subject:

---

**APPENDIX L**

Documentation of Protest - Solicitation Number S-04534210

ERNIE FLETCHER
GOVERNOR

**OFFICE OF THE SECRETARY**
FINANCE AND ADMINISTRATION CABINET
383 CAPITOL ANNEX
FRANKFORT, KENTUCKY 40601
(502) 564-4240
(502) 564-6785 FAX

ROBBIE RUDOLPH
SECRETARY

November 23, 2004

Mr. Dave Trimpe, Commercial Accounts Manager
32 Ford-Mercury, Inc.
Fleet Department
610 West Main Street
Batavia, Ohio 45103

RE: Determination of Protest
Solicitation No. S-04534210

Dear Mr. Trimpe:

The Finance and Administration Cabinet received your letter of protest filed on behalf of 32 Ford-Mercury, Inc. (32 Ford) to the award of a contract to Countryside Ford, Inc. (Countryside) from the above solicitation. In the protest, 32 Ford contends:

> ...Based on the original bid tabulations we requested from the Commonwealth of Kentucky, the determination of the bid was based solely on the availability to include a ½ a tank of gas in each vehicle. There were no indications stating that the bid award was based on any other criteria including the standard and/or optional equipment unavailable on the specified vehicles.
>
> Our proposal was marked "non-responsive" due to not meeting the specifications as outlined in Section 18 regarding the requirement for a ½ tank of fuel. Paul Miller Ford and Bloomington Ford's proposal were also noted as non-responsive since they also noted this exception. All three of us noted this exception "as not available from the plant". Countryside and Bill Collins Ford did not note this or any exceptions to your specifications...

## FACTUAL BACKGROUND

The Finance and Administration Cabinet, on behalf of the Kentucky State Police (KSP) and the Transportation Cabinet, Division of Fleet Management, issued Solicitation No. S-04534210 on August 27, 2004, for Ford 2005 Crown Victoria Police Interceptor P-71 pursuit and

investigative models. Bids were requested for competitive sealed bidding pursuant to KRS 45A.080. A modification to the solicitation was issued on September 10, 2004, which extended the closing date to September 21, 2004. Another modification, issued September 20, 2004, extended the closing date to September 28, 2004. The Cabinet received five (5) bids in response to the solicitation, including bids from 32 Ford and Countryside. The bids were opened on September 28, 2004, and the contract was awarded to Countryside on October 21, 2004.

Pursuant to KRS 45A.285, 32 Ford filed a formal protest to the award of the contract dated November 1, 2004. The Secretary of the Finance and Administration Cabinet received this protest on November 3, 2004.

## DETERMINATION

Under the Kentucky Model Procurement Code, contracts other than small purchase contracts must generally be made by competitive sealed bid. KRS 45A.080. The statute further provides that a contract shall be awarded to the responsive and responsible bidder whose bid offers the best value. Id. Any bidder who is aggrieved in connection with the solicitation or selection for award of a contract may file a protest with the Secretary of the Finance and Administration Cabinet, whose decision shall be final and conclusive. KRS 45A.285. A protest must be filed promptly and in any event within two (2) calendar weeks after such aggrieved person knows or should have known the facts giving rise thereto. Id.

Once bids are received in response to a solicitation, the purchasing officer responsible for the procurement examines the bids for any clerical or technical errors and reviews them for technical compliance with the terms of the solicitation. 200 KAR 5:306 Section 3. Any bid that does not conform to the specifications or terms and conditions contained in the solicitation shall be rejected unless such nonconformance constitutes a minor irregularity waivable in accordance with 200 KAR 5:306 Section 4.

The purchasing officer responsible for Solicitation No. S-04534210 examined the Solicitation Terms and Conditions, pages 11 and 20, which state:

> VEHICLE SUMMARY: PLEASE INCLUDE ALL OF THE FOLLOWING ITEMS IN PRICING THE VEHICLE. IT IS ANTICIPATED THAT ALL OF THESE ITEMS WILL BE ON ALL CARS ORDERED.

Pages 17 and 25 list "1/2 TANK GAS AT DELIVERY" as a standard item to be included in all cars ordered. Since 32 Ford's bid did not include ½ tank gas at delivery, it did not conform to the specifications contained in the solicitation, and was correctly deemed non-

responsive, as were other bids that did not include ½ tank gas.

32 Ford contends:

> Ford Motor Company's policy on fuel fill is based on the discretion of the plant. The particular plant where these vehicles are manufactured provides a maximum of five (5) gallons of gasoline for fleet orders. Since these vehicles are drop shipped directly to the Commonwealth of Kentucky from the plant, there is no way any dealer could meet this specification as requested shipped directly from the plant.

The purchasing officer verified with Countryside (at that point, the apparent winner) that fuel would be provided as stated in the specifications. Countryside verified that it would provide a ½ tank of gas for those vehicles drop shipped directly from the plant as well as for those that will be shipped through their dealership for delivery by Countryside.

Even if the failure to provide a ½ tank of gas at delivery was considered a minor/immaterial deviation which could be waived by the Commonwealth, and 32 Ford's bid was evaluated, the award would still have gone to Countryside on the basis of the best value points awarded in accordance with Section 30 of the solicitation (pages 30-31). Section 30 explains the "Best Value Ranking Approach," as used to award the contract to Countryside, as follows:

> With the ranking approach price is one of the measurable Best Value criteria components of the Solicitation. The measurable criteria are added together to determine the Vendor's total score. The Vendor with the highest Best Value score has the highest Best Value ranking. Award is made to the Vendor with the highest Best Value ranking.

Section 30 stated the measurable criteria as price (95 points) and vehicle delivery charge (5 points.) If 32 Ford's bid had been evaluated, 32 Ford would have received 95 points for price, while Countryside would have received 94.867 points. Regarding points for delivery charge, 32 Ford contends:

> The other issue we would like to address in this evaluating process is the 5 points awarded for delivery charges. Per your example given in the specifications on calculating this point award, it states that the vendor with the lowest delivery charge will receive the maximum points. Two of the dealers showed $0.00 for delivery. Based on your example, mathematically this number cannot be

> multiplied because it always equals "0". With that in mind, there is no way to award any points to a vendor who states a $0.00 delivery charge. Again based on the official bid tabulation, we had the lowest delivery charge which should have given us the full 5 points.

32 Ford bid $.45 per mile delivery charge, while Countryside bid $.00 per mile delivery charge. However, 32 Ford claims it had the lowest delivery charge and should have received the full five (5) points for delivery charge. 32 Ford contends that because Countryside bid $0.00 and the mathematical calculation given as example in the solicitation would have resulted in 0 points, Countryside should have received 0 points for delivery charge. This is not a tenable position. The purchasing officer reasonably substituted $0.01 per mile on Countryside's bid in order to calculate the points for delivery charge. This resulted in Countryside receiving the full five (5) points, while, if 32 Ford's bid had been evaluated, it would have received only .111 of the five (5) points available. It is totally unreasonable to expect that one who bids no charge should receive fewer points than one who bids some charge. The mathematical calculations shown in the solicitation were for example only. The substitution of $0.01 for $0.00 in no way violates any applicable statute, regulation or condition of the solicitation. Thus, even if 32 Ford's bid had not been deemed non-responsive, 32 Ford would have scored a total of 95.111 points, while Countryside would have scored 99.867 points.

Finally, 32 Ford states:

> There were several items in which the Commonwealth of Kentucky had requested, either as standard or optional equipment that could not be met. Countryside Motors nor any other authorized Ford Dealer, including us, are able to provide these items as factory options. On the bid tabulation they were noted incorrectly on our proposal as being on the pursuit vehicle not the investigative unit as noted on our exception sheet...
>
> 1) Power Lumbar: Requested a cloth reclining front 60/40 or bench seat including power lumbar under the base vehicle specifications. As per the attached order guide from Ford Motor Company, you can clearly see noted this is not available. (See attachment #3)
> 2) AM/FM Radio with Cassette & CD Player: Requested as an additional option, an AM/FM Cassette radio is the only other audio option available from Ford Motor Company. (See attachment #4)

In reviewing the bids, the purchasing officer noted that the dealers were taking exceptions to these same points per the Ford specifications. The purchasing officer thus determined that since

Ford did not offer these items as options to any of their dealers, they were not considered exceptions. All bidders were treated the same regarding these items.

After review of all documentation relating to the protest by 32 Ford, it appears 32 Ford's bid was correctly deemed non-responsive, and the contract was awarded to Countryside in accordance with applicable statutory and regulatory procedures. Therefore, 32 Ford's protest must be **DENIED**. In accordance with KRS 45A.285 (4), the decision by the Finance and Administration Cabinet shall be final and conclusive.

For the Secretary,
Finance and Administration Cabinet
By Designation

Joseph B. Howard
Executive Director

cc: R. B. Rudolph, Jr.
Mike Burnside
Mike Gustafson
Michael Space, Countryside Ford

**APPENDIX M**

Explanation from FAC Buyer Regarding Paul Miller Ford's Ability to Lower Price

## Wilson, Alice (APA)

**From:** Gustafson, Mike (Finance Administration)
**Sent:** Wednesday, August 10, 2005 2:34 PM
**To:** Wilson, Alice (APA)
**Cc:** Abner, Dan I (Finance Administration)
**Subject:** P. Miller ?

Alice -

Paul Miller could have lowered their pricing any time during the 4 year period they had the Contract. Normally price reductions (or increases) are done at the time of Renewal but vehicles are different in that pricing and option info may not be available on the same cycle as the renewal periods. They could have dropped it once or more during a contract year.

Wording from PM CMA on pricing is below.

Thanks,

Mike

Section 6
Basis of Price Revisions
PRICE ADJUSTMENTS: Unless otherwise specified, the prices established by the contract shall be firm for the contract period subject to the following:
A: Price Increases: A price increase will not be allowed during the first six (6) months of the contract. Only one price increase will be allowed during the contract period. The price increase must be based on industry wide price changes. The contract holder must request in writing a price increase at least thirty (30) days prior to the effective date, and shall provide firm proof that the price increase(s) is justified. The Division of Material and Procurement Services may request additional information or justification. If the price increase is denied, the contract holder may withdraw from the contract without prejudice upon written notice and approval by the Division of Material and Procurement Services. Notice of withdrawal must be provided forty-five (45) days prior to the effective date.

B: Price Decreases: The contract price shall be reduced to reflect any industry wide price decreases. The contract holder is required to furnish the Division of Material and Procurement Services with notice of any price decreases, as soon as such decreases are available.

C. Extended Contract Periods: If the contract provides for an optional renewal period, a price adjustment may be granted at the time the contract is renewed, subject to price increase justification as required in paragraph "A. Price Increases" as stated above.

Section 6.1
Basis of Price Revisions - 90 Day Period Revision
Prices may be subject to revision at the end of each 90-day period. Such changes shall be based on general industry changes. Revisions may be

either increases or decreases and may be requested by either party. The price quoted each 90-day period shall be firm except that the State shall receive the benefit of any decline that the seller shall offer to other accounts. Requests for price changes shall be received in writing at least 15 days prior to their effective date and are subject to written acceptance before becoming effective. Proof of the validity of a request for revision shall be the responsibility of the requesting party.

Section 6.2
Basis of Price Revisions - Price Firm for Initial Period
Prices in this Contract shall remain firm for the initial period. After this time prices are subject to revision which may be either increases or decreases. Such revisions may be requested by either of the contracting parties and must be requested in writing. The requesting party must furnish documented evidence substantiating the validity of the request. The party to whom the request is presented must notify the requesting party of the decision within 30 days after receipt of the request or satisfactory supporting documentation whichever occurs later. In the event the requested revision is refused, the requesting party shall have the right to withdraw from the contract, without prejudice. Provided, however, that the vendor must continue service, at the contract prices, until a new contract can be established (usually about 60 days).

Michael B. Gustafson, CPPB
Strategic Procurement Specialist II
Office of Material and Procurement Services (OMPS)
Finance and Administration Cabinet
Room 373 New Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601-3448
Phone: (502) 564-4510 (Ext. 269)
Fax: (502) 564-7209
E-Mail: mike.gustafson@ky.gov



---

From: Wilson, Alice (APA)
Sent: Wednesday, August 10, 2005 11:20 AM
To: Gustafson, Mike (Finance Administration)
Subject: P. Miller ?

Mike,

I also need to know if Paul Miller could have lowered their price on the Crown Vics during their 4 year contract period? They have the option to

lower it each year don't they (Man O'War did on the Taurus)

**APPENDIX N**

FAC Response

ERNIE FLETCHER
GOVERNOR

**OFFICE OF THE SECRETARY**
FINANCE AND ADMINISTRATION CABINET
383 CAPITOL ANNEX
FRANKFORT, KENTUCKY 40601
(502) 564-4240
(502) 564-6785 FAX

ROBBIE RUDOLPH
SECRETARY

August 29, 2005

Ms. Crit Luallen
Auditor of Public Accounts
105 Sea Hero Road, Suite 2
Frankfort, Kentucky 40601

Subject: Finance and Administration Cabinet Response
RE: APA Draft: Review of Finance and Administration Solicitation # S-04534210 Investigative and Pursuit Vehicles

Dear Ms. Luallen:

We appreciate the opportunity to respond to the APA Draft Report: Review of Finance and Administration Solicitation # S-04534210 Investigative and Pursuit Vehicles. The Finance and Administration Cabinet is committed to ensuring that our procurement process is fair and consistent with statutory requirements, Kentucky Administrative Regulations, and Finance Administration Policies.

Your review includes findings and recommendations. We are providing our response to each of your recommendations.

**APA Recommendation: FAC should evaluate the policy that allows the buyers to cancel and rebid contracts of this dollar magnitude without supervisory approval.**

Cabinet response: Buyers have the authority to make buying decisions consistent with statutes, regulations, and policies. Management has been and will continue to be involved with staff daily regarding procurement activities.

**APA Recommendation: FAC should immediately review contract specifications and clarify the issue or cancel the bid and reissue where there are significant questions about a specification.**

Cabinet response: FAC has an ongoing effort to ensure the specifications are consistent with the ability of a bidder or manufacturer to supply the requested item. Potential bidders are allowed in every solicitation to question the accuracy of specifications. When an incorrect specification is brought to our attention, we make a concerted effort to investigate the purported inaccuracy and do make changes when appropriate. During the bidding phase of Solicitation # S-04534210, no vendors or manufacturer raised the issue regarding the required gas level.

**APA Recommendation: FAC should communicate contractual requirements to agencies and remind agencies of their responsibility to monitor contract compliance.**

Cabinet response: FAC will communicate contract requirements to agencies and assist, when necessary, in ensuring compliance.

**APA Recommendation: FAC should reevaluate blended price methodology in the future.**

Cabinet response: FAC will determine the best approach in awarding contract to secure the best value for the Commonwealth.

**APA Recommendation: FAC buyers should keep phone logs of all conversations regarding the bids or comply with the solicitation directive.**

Cabinet response: FAC buyers will be required to follow procedures outlined in solicitations.

**APA Recommendation: We recommend that the practice of rotating buyers be reinstated.**

Cabinet response: Commodity assignments are made based on knowledge and experience of the buyer. There are contracts that require the involvement of the buyer after contract award and a buyer with experience, regarding the commodity and user agency, will effectively administer the contract. We will continue to provide cross training and rotate assignments where feasible.

**APA Recommendation: FAC should notify all bidders of final agency action so losing bidders could avail themselves of appeal rights.**

Cabinet response: All solicitation awards are posted to the FAC procurement web site. The web site has open access for everyone. Bidders are instructed to check this site for information on contract award. Bidders are allowed, by statute, 14 calendar days to file a protest of contract award.

Thank you for the opportunity to respond to your draft report and we look forward to discussing our responses with your staff.

Sincerely,

R. B. Rudolph, Jr.
Secretary