

**STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND**

In the Matter of Protest of:

Dougherty Equipment Company, Inc.

South Carolina Materials Management  
Office

IFB No. 5400004309  
Statewide Term Contract for  
Motor Graders and Backhoes

**BEFORE THE CHIEF PROCUREMENT OFFICER**

DECISION

CASE NO.: 2012-138

POSTING DATE: October 30, 2012

MAILING DATE: October 30, 2012

This matter is before the Chief Procurement Officer (CPO) pursuant to a letter of protest dated August 10, 2012 (filed with the CPO August 12, 2012), from Dougherty Equipment Company, Inc. (Dougherty). Dougherty sells JCB equipment. With this invitation for bids (IFB), the South Carolina Materials Management Office (MMO) attempts to procure statewide term contracts for motor graders and backhoes. Dougherty protested the awards for Medium Duty Backhoes, Heavy Duty Backhoes, and Super Duty Backhoe Loaders. Additionally, Dougherty protests the awards to Altman Tractor (Altman), who sells New Holland equipment.

As its grounds of protest, Dougherty cited: (1) “the bid’s classification of what SAE horsepower is as it is specified in the bid and how several of the competitors advertise these HP ratings as compared to JCB (Dougherty),” and (2) “locations of a specific competitor [specified later in the letter as Altman] intended to be awarded the bid as it pertains to the bid spec.”

As the controlling issues in this case are clear, this decision is prepared without the benefit of a hearing.

**NATURE OF PROTEST**

The letter of protest is attached and incorporated herein by reference.

## FINDINGS OF FACT

The following dates are relevant to the protest:

1. On May 21, 2012, MMO issued IFB No. 5400004309. The IFB sought bids for five separate line items. It permitted up to three awards per line item, to the lowest responsive and responsible bidder for each line item, and to other responsive and responsible bidders whose prices were within 4% of the lowest bid for that same line item. (Ex. 1, p. 40) Regarding horsepower ratings for backhoes, the IFB provided:

### **SPECIFICATIONS FOR BACKHOE-LOADER, INTEGRAL, MEDIUM, HEAVY AND SUPER- DUTY**

6. **ENGINE:** The unit shall be powered by a heavy-duty, liquid-cooled, Tier IV or Interim Tier IV compliant Diesel engine. The engine shall be equipped, as a minimum, as follows:

#### 6.1 **Minimum net SAE Horsepower by Backhoe Loader Size Category**

- 6.1.1 **Medium Duty:** 72 rated at not more than 2300 rpm
- 6.1.2 **Heavy Duty:** 90 rated at not more than 2300 rpm
- 6.1.3 **Super Duty:** 92 rated at not more than 2300 rpm

(Ex. 1, p. 25) Regarding service facilities for backhoes, the IFB required:

30. **SERVICE FACILITIES:** Each unit must have product support available in the form of authorized sales, parts, service, and training personnel located within South Carolina or within a reasonable distance of all potential sites (all SC counties). A reasonable distance is one that can be traveled by a technician in a service truck in less than three (3) hours driving time.

(Ex. 1, p. 33) (emphasis added)

2. On June 12, 2012, MMO conducted a pre-bid conference.
3. On June 19, 2012, MMO issued Amendment 1 to the IFB. (Ex. 2) Although Amendment 1 made significant changes, including changes to the award criteria, none is relevant to this protest.
4. On June 26, 2012, MMO closed the question period.
5. On June 27, 2012, MMO issued Amendment #2 (Ex. 3) that also substantially rewrote the solicitation. However, Amendment #2 did not alter the document's revised provisions addressing award.
6. On June 28, 2012, MMO issued Amendment #3, which made no changes to the provisions for award. (Ex. 4)
7. On July 17, 2012, MMO opened the bids received.

8. On August 2, 2012, DOT posted Statements of Award (Ex. 5) as follows:

<u>Item #</u>	<u>Description</u>	<u>Awarded Bidder</u>
1	Super Duty Backhoe	Altman Tractor & Equipment
1	Super Duty Backhoe	Hills Machinery Company
2	Medium Duty Backhoe	Flint Equipment Company
2	Medium Duty Backhoe	Hills Machinery Company
3	Heavy Duty Backhoe	Altman Tractor & Equipment
3	Heavy Duty Backhoe	Flint Equipment Company
4	Heavy Duty Backhoe w/ Options	Altman Tractor & Equipment
5	Heavy Duty Motor Grader	ASC Construction Equipment

9. On August 12, 2012, Dougherty filed its protest with the CPO.

10. On August 13, 2012, MMO suspended the intents to award. (Ex. 6)

### DISCUSSION

Dougherty submitted bids for: Item #1 Super Duty Backhoe, Item #2 Medium Duty Backhoe, Item #3 Heavy Duty Backhoe, and Item #4 Heavy Duty Backhoe with Options. Dougherty's bid prices for line items 1, 2, and 3 were neither low nor within 4% of the lowest responsive and responsible bidders' prices.<sup>1</sup>

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<sup>1</sup> Relevant bids for Items 1 – 3 were as follows:

<u>Item #</u>	<u>Low Bid</u>	<u>Low Bid + 4%</u>	<u>Dougherty Bid</u>
1	\$80,885	\$84,120	\$84,500
2	\$54,619	\$56,804	\$70,750
3	\$64,740	\$67,330	\$71,900

Dougherty did not protest MMO's calculations. While Dougherty's letter did not specify which awards it targeted with its first ground of protest, it could only pertain to Item #4.

MMO rejected Dougherty's bid for Item 4, 76004 - Backhoe/Loader Combination, as nonresponsive to the horsepower requirements. Dougherty's Protest Ground #1 contests this rejection, citing:

[T]he bid's classification of what SAE horsepower is as it is specified in the bid and how several of the competitors advertise these HP ratings as compared to JCB (Dougherty) . . . locations of a specific competitor intended to be awarded the bid as it pertains to the bid spec.

According to bid spec number 6 of the bid below, the bid specifies SAE Net horsepower however does not specify what particular net horsepower test should be used.

6. **ENGINE:** The unit shall be powered by a heavy-duty, liquid-cooled, Tier IV or Interim Tier IV certified Diesel engine. The engine shall be equipped, as a minimum, as follows:
- 6.1. **Minimum net SAE Horsepower by Backhoe Loader Size Category**
- 6.1.1. **Medium Duty:** 72 rated at not more than 2300 rpm
  - 6.1.2. **Heavy Duty:** 90 rated at not more than 2300 rpm
  - 6.1.3. **Super Duty:** 92 rated at not more than 2300 rpm

JCB currently only provides ISO 14396 (SAE J1995) testing which is an engine's ability to make power without a viscous fan applied. SAE testing provides for the same type of testing but with a viscous fan applied. Typical results show that a viscous fan provides a net loss of around 1-2 horsepower meaning the 91 hp BHL would provide approximately 89-90 hp, meaning our heavy duty unit would meet or would be close to meeting the bid specification. JCB could unfortunately not provide this information in the time frame needed due to a year summer shutdown which occurs during the month of August.

Despite MMO's request, Dougherty was never able to document that its heavy-duty backhoe produced 90 net SAE horsepower. In a July 26, 2012, email message to the procurement officer, Dougherty's vice president expressly acknowledged the "we cannot provide you with what we believe you are asking." Without documentation that Dougherty's bid for Item 4 met the specifications, MMO rejected Dougherty's bid. Dougherty never presented evidence that its equipment met the solicitation's horsepower requirement. In fact, Dougherty wrote in its protest letter, "JCB could unfortunately not provide this information in the time frame needed due to a year summer shutdown which occurs during the month of August."

Regarding Protest Ground #2, Dougherty cited “locations of a specific competitor [specified later in the letter as Altman] intended to be awarded the bid as it pertains to the bid specs.” Again, Dougherty failed to identify which items it intended to protest. However, Altman received three awards: Item #1 Super Duty Backhoe, Item # 3 Heavy Duty Backhoe, and Item #4 Heavy Duty Backhoe with Options. The CPO interprets Dougherty’s protest as contesting all awards to Altman.

Dougherty alleged, “Altman Tractor is currently located in both Florence, SC as well as Conway, SC. It can be clearly seen in the screen shots below that, given the most Western parts of the state, Altman tractor cannot meet the service facility criteria from either of their locations.” Dougherty included two “Google Maps” screenshots purporting to show travel times from Florence to Cleveland, South Carolina,<sup>2</sup> and from Conway to Cleveland, exceed three hours. The IFB required service facilities “located within South Carolina *or* within a reasonable distance of all potential sites (all SC counties).” (Ex. 1, p. 33) (emphasis supplied) Since by Dougherty’s own admission Altman’s facilities are “located within South Carolina,” Altman is compliant with the specifications and its bid is responsive.

### **CONCLUSIONS OF LAW**

For Items 1 -3, Dougherty’s bids did not meet the criteria for award: its prices were not low or within 4% of the lowest bid. Thus, it has only been aggrieved by MMO’s rejection of its bid for Item 4; or, potentially, by the State’s awards to Altman for Items 1, 3, and 4.

Section 11-35-4210(1)(b) of the Consolidated Procurement Code permits protests of the award of a contract:

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<sup>2</sup> Cleveland is located in northwest Greenville County, not far from the North Carolina boundary. It is not clear why Dougherty chose Cleveland for its protest, except that there seems to be no place in the State more remote from Florence or Conway.

Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest to the appropriate chief procurement officer in the manner stated in subsection (2)(b) within ten days of the date award or notification of intent to award, whichever is earlier, is posted in accordance with this code; **except that a matter that could have been raised pursuant to (a) as a protest of the solicitation may not be raised as a protest of the award or intended award of a contract.**

(emphasis added) Section 11-35-4210(1)(a) requires protests of a solicitation be filed within fifteen days of its issuance.

The original IFB was issued May 21, 2012. Its requirements for minimum net horsepower, and for the location of a bidder's service facilities, were not changed by amendment. Dougherty filed its protest August 12, 2012, nearly three months later. Dougherty did not protest, and has not protested, the specification that bidders must certify the horsepower ratings of its equipment or the specification that bidders maintain service facilities either in South Carolina or within a reasonable distance of all potential sites. Therefore, to the degree that Dougherty complains about the specifications, its protest is not timely filed.

Regarding Protest Ground #1, Dougherty failed to certify the minimum net SAE horsepower of the backhoes it bid for Item #4, as required by the IFB. MMO had no choice but to reject Dougherty's bid for Item #4. Regarding Protest Ground #2, even Dougherty acknowledged Altman maintains service facilities in two South Carolina locations. Therefore, Altman was responsive to the IFB's requirement for service facilities.

#### **DETERMINATION**

For the foregoing reasons the protest is dismissed.

Voight Shealy

R. Voight Shealy  
Chief Procurement Officer  
For Supplies and Services

Oct. 30, 2012

Date

Columbia, S.C.

**STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW**  
*Protest Appeal Notice (Revised July 2012)*

The South Carolina Procurement Code, in Section 11-35-4210, subsection 6, states:

(6) Finality of Decision. A decision pursuant to subsection (4) is final and conclusive, unless fraudulent or unless a person adversely affected by the decision requests a further administrative review by the Procurement Review Panel pursuant to Section 11-35-4410(1) within ten days of posting of the decision in accordance with subsection (5). The request for review must be directed to the appropriate chief procurement officer, who shall forward the request to the panel or to the Procurement Review Panel, and must be in writing, setting forth the reasons for disagreement with the decision of the appropriate chief procurement officer. The person also may request a hearing before the Procurement Review Panel. The appropriate chief procurement officer and an affected governmental body shall have the opportunity to participate fully in a later review or appeal, administrative or judicial.

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Copies of the Panel's decisions and other additional information regarding the protest process is available on the internet at the following web site: <http://procurement.sc.gov>

**FILE BY CLOSE OF BUSINESS:** Appeals must be filed by 5:00 PM, the close of business. *Protest of Palmetto Unilect, LLC*, Case No. 2004-6 (dismissing as untimely an appeal emailed prior to 5:00 PM but not received until after 5:00 PM); *Appeal of Pee Dee Regional Transportation Services, et al.*, Case No. 2007-1 (dismissing as untimely an appeal faxed to the CPO at 6:59 PM).

**FILING FEE:** Pursuant to Proviso 83.1 of the 2012 General Appropriations Act, "[r]equests for administrative review before the South Carolina Procurement Review Panel shall be accompanied by a filing fee of two hundred and fifty dollars (\$250.00), payable to the SC Procurement Review Panel. The panel is authorized to charge the party requesting an administrative review under the South Carolina Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6) and/or 11-35-4410...Withdrawal of an appeal will result in the filing fee being forfeited to the panel. If a party desiring to file an appeal is unable to pay the filing fee because of financial hardship, the party shall submit a completed Request for Filing Fee Waiver form at the same time the request for review is filed. The Request for Filing Fee Waiver form is attached to this Decision. If the filing fee is not waived, the party must pay the filing fee within fifteen days of the date of receipt of the order denying waiver of the filing fee. Requests for administrative review will not be accepted unless accompanied by the filing fee or a completed Request for Filing Fee Waiver form at the time of filing." PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

**LEGAL REPRESENTATION:** In order to prosecute an appeal before the Panel, an incorporated business must retain a lawyer. Failure to obtain counsel will result in dismissal of your appeal. *Protest of Lighting Services*, Case No. 2002-10 (Proc. Rev. Panel Nov. 6, 2002) and *Protest of The Kardon Corporation*, Case No. 2002-13 (Proc. Rev. Panel Jan. 31, 2003).

**South Carolina Procurement Review Panel  
Request for Filing Fee Waiver  
1105 Pendleton Street, Suite 202, Columbia, SC 29201**

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\_\_\_\_\_  
Name of Requestor

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Business Phone

- 
1. What is your/your company's monthly income? \_\_\_\_\_
  2. What are your/your company's monthly expenses? \_\_\_\_\_
  3. List any other circumstances which you think affect your/your company's ability to pay the filing fee:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To the best of my knowledge, the information above is true and accurate. I have made no attempt to misrepresent my/my company's financial condition. I hereby request that the filing fee for requesting administrative review be waived.

Sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
Notary Public of South Carolina

\_\_\_\_\_  
Requestor/Appellant

My Commission expires: \_\_\_\_\_

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For official use only: \_\_\_\_\_ Fee Waived \_\_\_\_\_ Waiver Denied

\_\_\_\_\_  
Chairman or Vice Chairman, SC Procurement Review Panel

This \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_  
Columbia, South Carolina

**NOTE: If your filing fee request is denied, you will be expected to pay the filing fee within fifteen (15) days of the date of receipt of the order denying the waiver.**

8/10/2012

To whom it may concern,

Dougherty JCB would like to protest the intent to award the SC state contract for backhoe loaders based around several different criteria they as well as their competitors do or do not meet. These issues in particular are based around the bid's classification of what SAE horsepower is as it is specified in the bid and how several of the competitors advertise these HP ratings as compared to JCB as well as the locations of a specific competitor intended to be awarded the bid as it pertains to the bid spec.

According to bid spec number 6 of the bid below, the bid specifies SAE Net horsepower however does not specify what particular net horsepower test should be used.

6. **ENGINE:** The unit shall be powered by a heavy-duty, liquid-cooled, Tier IV or Interim Tier IV certified Diesel engine. The engine shall be equipped, as a minimum, as follows:
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Taking a look at competitive literature, New Holland touts Net numbers however they make no mention of SAE net but do mention the viscous fan application.

PowerShift—are available for most B Series models to match your operating needs.

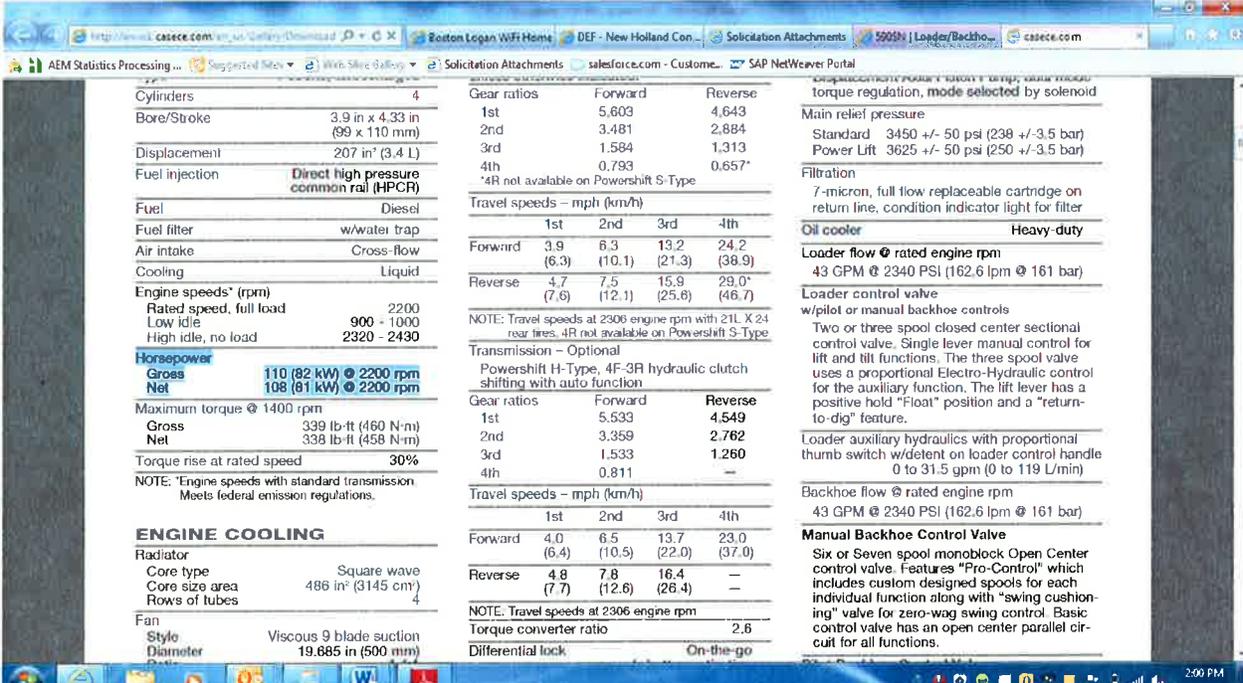
- Outboard maintenance-free service brakes and separate SAHR park brakes provide enhanced performance and control.
- Easy-open flip-up hood allows a wide access with low effort for daily maintenance needs.



SPECIFICATIONS	B90B	B95B	B95B TC	B96B LR	B110B	B115B
Operating weight, lbs (kg)	15,677 (7111)	16,008 (7261)	18,135 (8226)	16,088 (7297)	16,316 (7401)	18,209 (8296)
Engine make & model	CNH 445TA/ML5 Emission Compliant	CNH 445TA/EEA Emission Compliant	CNH 445TA/EEA Emission Compliant	CNH 445TA/EEA Emission Compliant	CNH 445TA/EGH Emission Compliant	CNH 445TA/EGH Emission Compliant
Net w/viscous fan @ 2200r/min, hp (kW)	95 (71)	95 (71)	95 (71)	95 (71)	108 (81)	108 (81)
Loader lift capacity @ full height, lbs (kg)	7,464 (3386)	8,095 (3672)	6,856 (3110)	8,095 (3672)	7,925 (3595)	7,464 (3386)
Loader bucket breakout force, lbs (kg)	12,169 (5520)	15,212 (6900)	14,109 (6400)	15,212 (6900)	14,109 (6400)	12,169 (5520)
Backhoe bucket dig force, lbs (kg)	12,952 (5875)	13,255 (6012)	13,255 (6012)	12,618 (5723)	12,618 (5723)	12,618 (5723)

**CUSTOMER SERVICE**  
1-888-365-6423  
1-888-365-NHCE

Case also mentions Net and Gross horsepower however they make no mention of the testing used to prove these numbers.



**Cylinders** 4

**Bore/Stroke** 3.9 in x 4.33 in (99 x 110 mm)

**Displacement** 207 in<sup>3</sup> (3.4 L)

**Fuel injection** Direct high pressure common rail (HPCR)

**Fuel** Diesel

**Fuel filter** w/water trap

**Air intake** Cross-flow

**Cooling** Liquid

**Engine speeds\* (rpm)**  
Rated speed, full load 2200  
Low idle 900 - 1000  
High idle, no load 2320 - 2430

**Horsepower**  
Gross 110 (82 kW) @ 2200 rpm  
Net 108 (81 kW) @ 2200 rpm

**Maximum torque @ 1400 rpm**  
Gross 339 lb-ft (460 N-m)  
Net 338 lb-ft (458 N-m)

**Torque rise at rated speed** 30%

NOTE: \*Engine speeds with standard transmission. Meets federal emission regulations.

**ENGINE COOLING**

**Radiator**  
Core type Square wave  
Core size area 486 in<sup>2</sup> (3145 cm<sup>2</sup>)  
Rows of tubes 4

**Fan**  
Style Viscous 9 blade suction  
Diameter 19.685 in (500 mm)

**Gear ratios**

	Forward	Reverse
1st	5.603	4.643
2nd	3.481	2.884
3rd	1.584	1.313
4th	0.793	0.657*

\*4R not available on PowerShift S-Type

**Travel speeds – mph (km/h)**

	1st	2nd	3rd	4th
Forward	3.9 (6.3)	6.3 (10.1)	13.2 (21.3)	24.2 (38.9)
Reverse	4.7 (7.6)	7.5 (12.1)	15.9 (25.6)	29.0 (46.7)

NOTE: Travel speeds at 2306 engine rpm with 21L X 24 rear tires. 4R not available on PowerShift S-Type

**Transmission – Optional**  
PowerShift H-Type, 4F-3R hydraulic clutch shifting with auto function

**Gear ratios**

	Forward	Reverse
1st	5.533	4.549
2nd	3.359	2.762
3rd	1.533	1.260
4th	0.811	—

**Travel speeds – mph (km/h)**

	1st	2nd	3rd	4th
Forward	4.0 (6.4)	6.5 (10.5)	13.7 (22.0)	23.0 (37.0)
Reverse	4.8 (7.7)	7.8 (12.6)	16.4 (26.4)	—

NOTE: Travel speeds at 2306 engine rpm

**Torque converter ratio** 2.6

**Differential lock** On-the-go

**Displacement** 207 in<sup>3</sup> (3.4 L) torque regulation, mode selected by solenoid

**Main relief pressure**  
Standard 3450 +/- 50 psi (238 +/- 3.5 bar)  
Power Lift 3625 +/- 50 psi (250 +/- 3.5 bar)

**Filtration**  
7-micron, full flow replaceable cartridge on return line, condition indicator light for filter

**Oil cooler** Heavy-duty

**Loader flow @ rated engine rpm**  
43 GPM @ 2340 PSI (162.6 lpm @ 161 bar)

**Loader control valve**  
w/pilot or manual backhoe controls  
Two or three spool closed center sectional control valve. Single lever manual control for lift and tilt functions. The three spool valve uses a proportional Electro-Hydraulic control for the auxiliary function. The lift lever has a positive hold "Float" position and a "return-to-dig" feature.

**Loader auxiliary hydraulics** with proportional thumb switch w/detent on loader control handle 0 to 31.5 gpm (0 to 119 L/min)

**Backhoe flow @ rated engine rpm**  
43 GPM @ 2340 PSI (162.6 lpm @ 161 bar)

**Manual Backhoe Control Valve**  
Six or Seven spool monoblock Open Center control valve. Features "Pro-Control" which includes custom designed spools for each individual function along with "swing cushioning" valve for zero-wag swing control. Basic control valve has an open center parallel circuit for all functions.

John Deere specifies peak power at ISO specifications and makes no mention of SAE specifications.

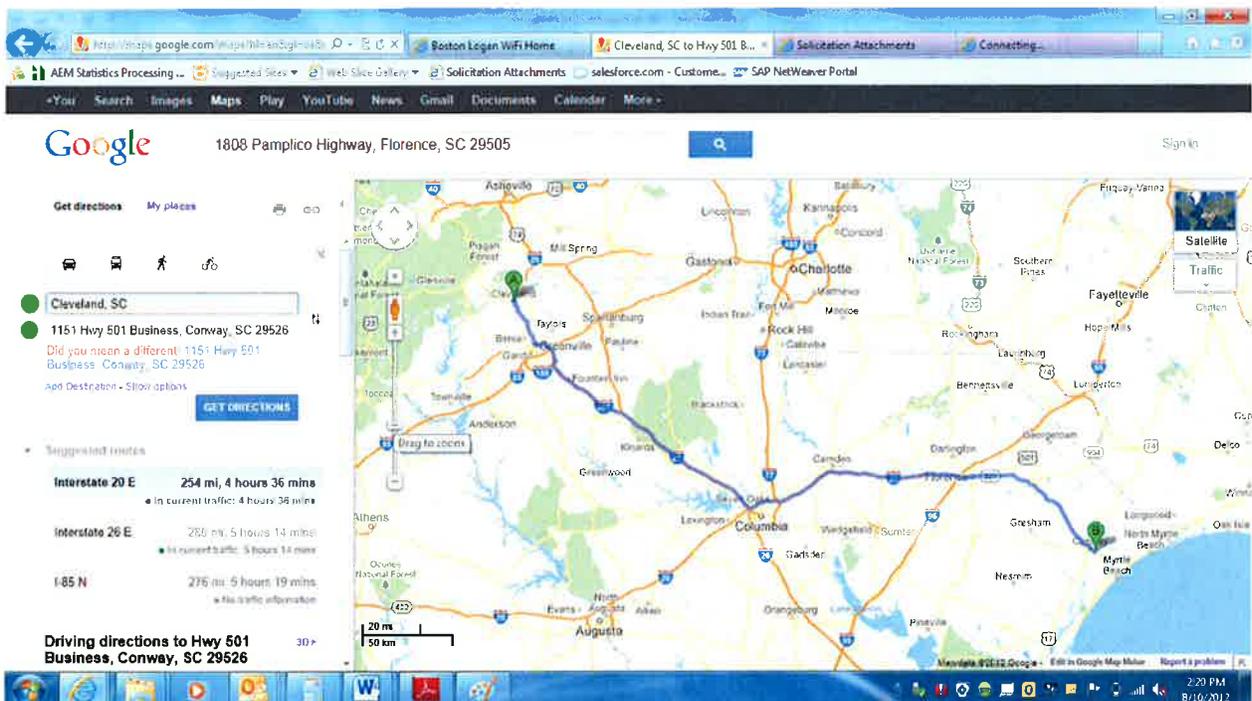
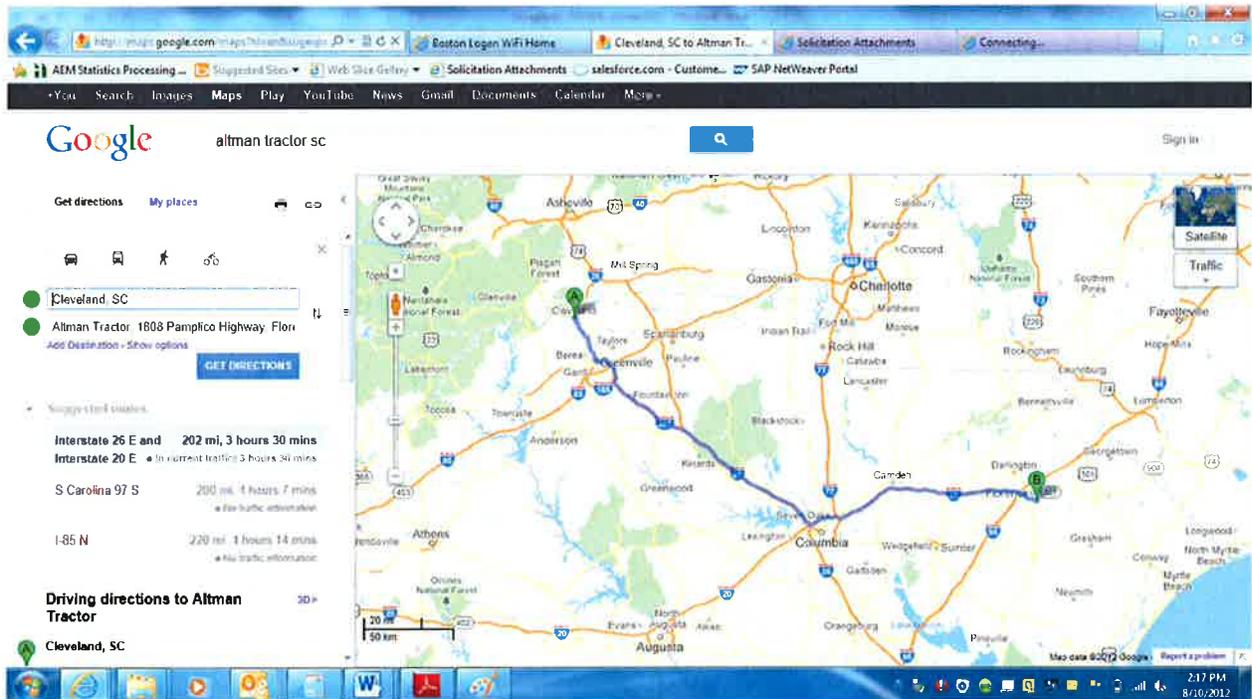
	310SK	310SK TC		
<b>Engine</b>	<b>310SK</b>	<b>310SK TC</b>		
Manufacturer and Model	John Deere PowerTech™ E 4045HT073 turbo-charged, standard	John Deere PowerTech E 4045HT063 turbo-charged, standard		
Non-Road Emissions Standard	EPA Interim Tier 4/EU Stage IIIB	EPA Interim Tier 4/EU Stage IIIB		
Displacement	4.5 L (276 cu. in.)	4.5 L (276 cu. in.)		
Net Peak Power (ISO 9249)	72 kW (97 hp) at 2,000 rpm	76 kW (102 hp) at 2,000 rpm		
Net Peak Torque (ISO 9249)	400 Nm (295 lb.-ft.) at 1,400 rpm	408 Nm (301 lb.-ft.) at 1,400 rpm		
Net Torque Rise	40%	32%		
Lubrication	Pressure system with spin-on filter and cooler	Pressure system with spin-on filter and cooler		
Air Cleaner	Dual-stage dry type with safety element and evacuator valve	Dual-stage dry type with safety element, evacuator valve, and pre-screener		
<b>Cooling</b>	<b>310SK / 310SK TC</b>			
Fan Type	Electronically controlled, variable-rate suction type			
Engine Coolant Rating	-40 deg. C (-40 deg. F)			
Engine Oil Cooler	Oil to water			
<b>Powertrain</b>	<b>310SK</b>	<b>310SK TC</b>		
Transmission	5 speed, helical-cut gears, full PowerShift™ transmission with hydraulic reverser standard, electric clutch cutoff on loader lever			
Torque Converter	Single stage, dual phase with 2.63:1 stall ratio, 280 mm (11 in.)			
Maximum Travel Speeds with Standard Engine, Measured with 19.5L-24 Rear Tires	<i>Forward</i>	<i>Reverse</i>	<i>Forward</i>	<i>Reverse</i>
Gear 1	5.6 km/h (3.5 mph)	7.0 km/h (4.4 mph)	5.7 km/h (3.6 mph)	7.3 km/h (4.5 mph)
Gear 2	10.2 km/h (6.3 mph)	12.9 km/h (8.0 mph)	10.5 km/h (6.5 mph)	13.3 km/h (8.2 mph)
Gear 3	20.8 km/h (13.0 mph)	20.6 km/h (12.8 mph)	21.4 km/h (13.3 mph)	21.2 km/h (13.2 mph)
Gear 4	32.8 km/h (20.4 mph)		32.9 km/h (20.5 mph)	

The picture being painted is that there is no standard metric in how manufacturers rate their engines and that the competitors above, according to these Tier IVi spec sheets, do not technically meet the “SAE net” specification of the bid specification. In the spirit of fairness, it is felt that if Dougherty JCB is to be held to this standard and not awarded the contract, the competitors not meeting these specifications should not be awarded the contract either. If the competitors are awarded this contract even though they do not technically meet the bid specification, it is felt Dougherty should not be held to the higher standard and thus awarded the contract based on the other criteria outlined.

Another area of concern is the bids requirement for SC facilities to be within a 3 hour driving distance of all areas of SC

**30. SERVICE FACILITIES:** Each unit must have product support available in the form of authorized sales, parts, service, and training personnel located within South Carolina or within a reasonable distance of all potential sites (all SC counties). A reasonable distance is one that can be traveled by a technician in a service truck in less than three (3) hours driving time.

Altman Tractor is currently located in both Florence, SC as well as Conway, SC. It can be clearly seen in the screen shots below that, given the most Western parts of the state, Altman tractor cannot meet the service facility criteria from either of their locations.



Though they cannot meet this criterion they have still been given the intent to award.

It is felt that if this can be overlooked in the intention to award then the question of whether Dougherty JCB conforms to net SAE horsepower by 1 horsepower could be overlooked in the attempt to gain access to item 4 of the SCDOT state BHL bid.

Given the positive response of many of the townships in SC to the fact the JCB Tier IVi solution will not include a Diesel Particulate Filter/Regeneration cycle, Diesel Exhaust Fluid or any other type of additive/filter, it is believed that the benefits of this setup in terms of the absence of added downtime due to a filter burn off or added cost for any type of additive or additional filter far outweigh the "gray area" of one horsepower as compared to the bid specification. We at Dougherty JCB hope that the South Carolina Department of Transportation will view the JCB product in this light. Thank you for your time and consideration concerning this matter. We at Dougherty JCB look forward to doing business with the state of South Carolina in the future.

Sincerely,

*Robbie Angel*

Robbie Angel

Vice President of JCB Sales

Dougherty JCB

<http://www.doughertyjcb.com/>