

Protest of)
) Date: July 27, 1988
 ZAPPIA TRANSPORTATION)
 SERVICES, INC.)
)
 Solicitation No. 010-271-88) P.S. Protest No. 88-41

DECISION

Zappia Transportation Services, Inc. (Zappia) has timely protested the terms of Solicitation No. 010-271-88 issued by the Springfield, MA, Transportation Management Service Center for highway transportation service between Buffalo, Syracuse and Utica, NY, for a term beginning October 1, 1988.

As issued, the solicitation required the contractor to furnish three tandem-axle tractors, fourteen 45-foot tandem-axle trailers and two bogies. (A bogie links two trailers in tandem-trailer ("double-bottom") operation, providing a wheeled undercarriage for the front end of the rear trailer.) The solicitation included an estimate of 396,411 annual miles and 11,389 annual hours to operate the route.

The substance of Zappia's protest is that the solicitation fails to take into account that the tandem-trailer operation which it contemplates is prohibited in the State of New York except on the New York State Thruway, so that the solicitation effectively requires that tandem trailers be linked up and broken up at a Thruway exit so the trailers can be individually shuttled between the exits and the postal facilities.^{1/} As a consequence, Zappia alleges the following deficiencies in the solicitation:

^{1/}Although the solicitation does not specifically require tandem-trailer operation on the Thruway, the contracting officer acknowledges that such an operation was contemplated, as evidenced by the requirement for bogies and the statement in the solicitation that "[c]ontractor will perform all drayage to and from ramps (New York State Thruway)...."

1. The estimate of annual hours understates the actual requirement because it does not allow for the hours required for shuttle operation. Assuming the use of Thruway Exit 49 at Buffalo, Zappia calculates that the estimated annual hours should be increased by 2,898 hours.
2. The estimated annual mileage understates the actual requirement for the same reason. On the same assumption, Zappia calculates that the annual mileage should be increased by 34,776 miles.
3. Because of the requirement for shuttle service, the route requires four tractors, rather than the three specified in the solicitation.

Zappia requests that the solicitation be amended to reform the estimated annual hours and mileage to conform to Zappia's calculations, and to increase the number of required tractors from three to four.

Subsequent to receipt of Zappia's protest, the contracting officer issued Amendment No. 1 to the solicitation, revising the number of required tractors from three to four, and adding the following to the description of the route:

Part of the advertised service is for tandem trailer operation.

The bidder must determine the hook-up and break-up point to be used for tandem trips.

In a tandem operation Trips 803 and 807 have to be shuttled from the Buffalo, NY Post Office to an acceptable hook-up point for hook-up with Trips 801 and 805.

In a tandem operation Trips 804 and 808 have to be shuttled from an acceptable break-up point to the Buffalo, NY Postal Office after break-up from Trips 802 and 806.

Prior to submitting a bid, the bidder should determine the actual mileage and actual hours needed to operate the shuttle service.

Any additional costs incurred due to a shuttle operation should be included in the bid price as the Estimated Annual Schedule Miles and the Estimated Annual Schedule Hours given in the solicitation do not include this operation.

In his report on the protest, the contracting officer states that he did not adopt Zappia's calculations of the additional mileage and hours required for the shuttle service because the solicitation does not require use of Thruway Exit 49 at Buffalo, and other routings are possible.^{1/} Zappia has not filed a response to the contracting officer's report.

We find that Amendment No. 1 fully satisfies Zappia's concern that the required number of tractors be revised, and substantially satisfies its concern that the estimated annual mileage and hours in the solicitation are understated. Although the amendment does not adjust the solicitation's estimate of miles and hours to reflect the shuttle operation, it puts prospective bidders on notice that the hours and miles given exclude the shuttle operation. Given the solicitation's cautions concerning the role of the estimates,^{1/} this is sufficient. The protest is now moot. See IBI Security Service, Inc., Comp. Gen. Dec. B-217444, August 19, 1985, 85-2 CPD & 189.

The protest is dismissed.

William J. Jones
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Office of Contracts and Property Law

[checked against original JLS 2/25/93]

^{2/}The time to be allowed to perform hook-up and break-up of tandem trailers at the Thruway exit also appears to be variable.

^{3/}The estimates of annual mileage and annual hours are accompanied in the solicitation by the following cautionary notes:

[As to miles]

The estimated annual miles and per trip miles are given only as information. Prior to submitting a bid, the bidder should determine the actual miles. (For additional information see PS form 7469, Section D (Special Notices) Item No. 1. Sic)

[As to hours]

The estimated annual hours are approximately the number of hours needed to operate the trips as they are shown in the schedule. Also included in the total estimated per trip hours are the number of hours needed for loading and unloading. Prior to submitting a bid, the bidder must determine the actual hours.

Form 7469, Section II.D.1, Special Notices, referenced in the note pertaining to miles, provides as follows:

1. The distance stated in this solicitation is believed to be substantially correct. The pay will neither be increased nor decreased if the actual distance is greater or less than advertised, if the points to be supplied are correctly stated. No claim for additional pay can be allowed with is based on alleged mistakes or misapprehensions as to the length of route.