



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

F - 19

B-179060

DEC 3 1973

The Honorable
The Secretary of the Army

Dear Mr. Secretary:

We refer to report SAQAS (I&L)-MO dated August 22, 1973, from the Acting Assistant Deputy for Material Acquisition, responding to the protest of Transportation Services, Inc., under IPB DAFA03-73-B-0129, which was issued for shuttle bus service between certain points in Alaska.

The company maintains that its apparent low bid for the required transportation services should not have been considered nonresponsive for failing to contain a list of the buses that the company would use in performance of the contract. We must agree for the reasons stated below.

The required services were set forth in schedules "A," "B," and "C" of the IPB, as pertinent:

| ITEM NO. | SUPPLIES/SERVICES | QUANTITY | UNIT |
|----------|-------------------|----------|------|
|----------|-------------------|----------|------|

SCHEDULE 'A'

| | | | |
|------|--|-----|--|
| 0001 | Furnish Shuttle Bus service in accordance with Section 'F'. *** | 365 | da (from July 1, 1973, through June 30, 1974) |
|------|--|-----|--|

0001AA *** from Fort Greely to Fairbanks, Alaska and return ***

SCHEDULE 'B'

| | | | |
|------|--|-----|--|
| 0001 | Furnish Shuttle Bus service in accordance with Section 'F'. *** | 365 | da (from July 1, 1973, through June 30, 1974) |
|------|--|-----|--|

0001AA *** from Fort Greely to Delta Junction and return ***

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| ITEM NO. | SUPPLIES/SERVICES | QUANTITY | UNIT |
|--------------|--|----------|--|
| SCHEDULE 'C' | | | |
| 0001 | Furnish School Bus services * * * at Fort Greely in accordance with Section 'F'. * * * | 106 | da [from November 1, 1973 through April 15, 1974] |

0001AA * * * place of residence to
Fort Greely school and return."

Section "F" of the IFB described in detail the types of buses that would meet acceptable minimum standards for the service under each schedule. The last sentence of paragraph 5 of that section stated: "Contractor states the following buses will be used in performance of this contract."

Four bidders, Sturgeon Transportation Company, Alaska Motor Coaches, Transportation Services, and Trans Student Lines submitted bids by bid opening on June 7, 1973. Transportation Services was apparent low bidder on schedule "A" and on schedules "B" and "C," combined. The company did not, however, list the buses it would use in performing the contract. We observe from the abstract of bids that Trans Student Lines also did not furnish such a list. Because the contracting officer decided that this omission rendered Transportation Services' bid nonresponsive, he rejected its bid and made separate awards for schedule "A" and for schedules "B" and "C," combined, to the next lowest bidders on June 21, 1973.

Unless something on the face of the bid limits, reduces, or modifies the obligation of a prospective contractor to perform in accordance with the terms of the invitation, the bid must be considered responsive. 49 Comp. Gen. 553 (1970), and cases cited therein. Here, Transportation Services unqualifiedly offered to meet all requirements for the service, including minimum requirements for the buses to be used in furnishing the service. Its bid must, therefore, be considered responsive.

Further, we think the requirement for listing buses to be used in the service related to the capacity and ability of prospective contractors to supply the required buses and, thus, was a matter of responsibility. See B-178969, July 19, 1973 (53 Comp. Gen. ___); B-168396, February 2, 1970. This relation is confirmed by the fact that the contract is one for the furnishing of services and not for the furnishing of buses, except as an incident to furnishing the services. So limited, the failure

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of a bidder to list buses to be used in the service does not affect the obligation to furnish the service with buses meeting the minimum prescribed requirements. Whether a bidder can furnish the buses he is otherwise obliged to furnish is a separate question to be answered in deciding the responsibility of the bidder.

This case is therefore distinguishable from the situation in B-166255, August 1, 1969, cited in the administrative report, when bidders were required, as part of their bids, to identify offered products having "Qualified Products List" status. The contract was one for furnishing "Qualified Products List" products, not services. Thus, the failure of the apparent low bidder in that case to identify in some way the qualified product it was intending to offer affected its obligation to deliver a qualified product, and its bid was properly rejected as nonresponsive.

It is therefore our conclusion that Transportation Services' bid should not have been rejected without a specific determination that the company was nonresponsive. See B-168396, supra.

Consequently, we recommend that the contracting officer immediately request Transportation Services to confirm, in writing, that it will accept award at the prices and on the terms set forth in its original bid for the services if made within 30 calendar days from the date of this decision, or within the time deemed necessary by the contracting officer to: (1) make responsibility determinations on the company both for the current period and the original award date; (2) terminate for convenience the existing service contract(s) for those schedule(s) on which the company was low bidder, upon a finding that Transportation is responsible for both points in time; and (3) make award, if otherwise proper, to the company. If this assurance is obtained and the company under appropriate procedures is found to be responsible for both points in time, the contracting officer should immediately carry out the additional steps in the sequence listed.

Our Office would appreciate being advised as to the action taken with respect to this recommendation.

Sincerely yours,

Paul G. Dembling

For the Comptroller General
of the United States