

Protest of ) Date: October 9, 1992  
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 DOUG THOMPSON TRUCKING )  
 )  
 Solicitation No. 432-4023-92 ) P.S. Protest No. 92-67

### ON RECONSIDERATION

Sodrel Truck Lines, Inc., (Sodrel) an interested party with respect to the subject protest, has requested reconsideration of the subject decision.<sup>1/</sup>

Doug Thompson Trucking ("Thompson") protested concerning various aspects of solicitation 432-4023-92, issued by the Columbus Transportation Management Service Center (TMSC) for "as needed" service between a mailer's plant at Lebanon Junction, KY, and the Cincinnati, OH, General Mail Facility. Specifically, objections were raised concerning the inclusion of schedules for arrival and departure times and for sortation and loading times, which were asserted to be inconsistent with the concept of "as needed" service, and the solicitation's description of the vehicles required as "Two Axle Tractor (Single Drive)" instead of as a "tandem axle tractor."

The decision denied the protest. With respect to the inclusion of the schedules, it concluded that the solicitation contained no ambiguity because the schedules were identified as "representative" and as not necessarily reflective of actual operating times. With respect to the description of the required tractors, the decision stated as follows:

Thompson makes a persuasive case that, taken in isolation, the requirement for a "Two Axle Tractor" is ambiguous. The protest itself demonstrates, however, that a 47,000 pound payload requirement dictates the use of a tractor with two rear axles. We also take the contracting officer's point that a standard Postal Service specification for tandem tractors which has been employed since 1985

- Our decision on the protest was issued before Sodrel timely expressed its intention to comment on the protest.

without known controversy has withstood the test of the marketplace sufficiently that it cannot reasonably be said to be susceptible to two reasonable interpretations.

With respect to the schedules, Sodrel suggests that they serve no purpose, and that statements of each run's mileage and the time that the run should take and of the time required for dock sortation and loading would be more useful.

Concerning the vehicle description, Sodrel makes two points:

1. Some highway contract documents, including documents relating to Sodrel's 1986 contract for service between Louisville, KY, and Cincinnati, OH, issued by the Columbus TMSC, have correctly identified tandem axle tractors as such.
2. That the term "two axle" tractor is ambiguous is demonstrated by the responses of three different fleet truck sales representatives whom Sodrel asked to define the term "two axle tractor (single drive)."<sup>1/</sup>

Thompson has furnished further comments on the decision, noting that the term "tandem axle tractor" was used in the contract that it is operating, and that the reason that it bid on the solicitation was that the service solicited would otherwise have a substantial impact on its contract.

The contracting officer has submitted comments on Sodrel's submission. He asserts that Sodrel's suggested statement of run time appears to be a schedule, and that the intent of the schedule of loading times is intended to provide information necessary to prepared a bid. Concerning the vehicle description, the contracting officer notes instances in which Sodrel has bid on solicitations and renewed contacts using the terminology at issue here without indicated confusion. Further, Sodrel bid on the subject solicitation, submitting what the contracting officer describes as "a competitive bid." The contracting officer also offers evidence of the consistent use of the "two axle" terminology by other TMSCs.

Sodrel's points do not require a result differing from that reached in our initial decision.

Its contention that the solicitation schedules could be replaced by more satisfactory language does not establish that the schedules are ambiguous, only that they might be improved. Similarly, its evidence that in various contexts the TMSC has used the more satisfactory term "tandem axle tractor" does not establish the ambiguity of the less satisfactory term "Two Axle Tractor (Single Drive)," and its evidence that truck salesmen may interpret the latter term differently is not particularly relevant to how

- One identified it as specifying a tandem axle tractor, while the other two identified it as specifying a single axle tractor. These latter two appeared to recognize the conflict which existed between their definition and the solicitation's further requirement for a 47,000 pound payload.

prospective bidders on highway contracts understand the term. The contracting officer has indicated that the term has been used in highway contract solicitations with some frequency without any evidence of the confusion which both the protester and Sodrel fear. That evidence is sufficient to support the conclusion that the fear is not sufficiently well founded to require correction of this solicitation.

On reconsideration, the previous decision is affirmed.

For the General Counsel:

William J. Jones