

**METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY**

April 27, 2016

Protest Determination of RFQ 899491, *Vehicle Emission Testing Services*

A protest filed by Opus Inspection was considered on April 27, 2016. The protest claims for Metro's solicitation requirements were as follows:

Protest Claim 1:

The RFQ requires that only one potential bidder, Opus Inspection, to maintain and operate two (2) inspection stations with five (5) lanes in "Area 2," while allowing other potential bidders to maintain and operate only one (1) station with four (4) lanes in Area 2. This prima facie discrimination unfairly burdens Opus Inspection with higher costs than other potential bidders.

Protest Claim 2:

The RFQ requires that the existing "Westbelt Drive station will be closed" and a new station be built in "Area 3," which is as close as 2.7 miles away. The existing Westbelt station is well known by Nashville motorists and received customer volume in line with other stations. The burden, and cost, of closing the Westbelt station unfairly impacts only one potential bidder, Opus Inspection. The effects are a) a significant cost increase as this purpose built station will be demolished and replaced with a new station; b) an inconvenience as motorists for more than 20 years have been accustomed to drive to Westbelt station.

Purchasing Agent's Determination

Protest Claim 1

The RFQ provided options for Area 2. There are two current locations and the RFP specifically stated that, "These may both be used; if so, all five lanes must be equipped and used. If either one is used in conjunction with another station, whether new or old, there must be five lanes in this area. If neither is used they must be replaced by a station built according to the new-station standards outlined in this solicitation."

This was an optional accommodation for the incumbent. However, it does not reflect Metro's Public Health Department's strategic long-term goal and does place all other offerors at a disadvantage since they would be required to purchase new sites and equip as Metro requires. To ensure that all offerors provide the same

solution, this accommodation is withdrawn. The two current sites do not meet Metro's expectations. Therefore, all offerors are to provide the new, four-lane site as detailed in the solicitation.

The current contract was developed with the knowledge that sites would be resolved in this manner. Fortunately, property values have significantly appreciated thus nullifying any expressed financial burden. ***This protest claim is resolved and therefore, dismissed.***

Protest Claims 2

Metro is fully aware of the public's awareness of the current site and the public's diminishing use for each of the last five years. Therefore, it is Metro's expressed plan to provide a new site in Area 3. All potential offerors are treated in the same manner. Opus entered the current contract and has benefited from an extended contract period but it was known from the beginning that site locations and design would change with a new contract. The determination for how the existing property is managed or sold after the new contract is completed, is the decision of Opus. ***This protest claim is dismissed.***

Purchasing Agent's Determination

Nothing presented in the protest supports the claims other than the need to remove an option available only to the incumbent. Therefore, all protest claims are dismissed. While this solicitation was released in January, this protest decision will result in a solicitation amendment extending the deadline to May 7, 2016.

Respectfully,



Jeff L. Gossage C.P.M.
Purchasing Agent
The Metropolitan Government of Nashville and Davidson County

Cc: Contract Solicitation File