



DEPT. OF COMMERCE  
AND CONSUMER AFFAIRS

2016 JUN 29 A 10:23

HEARINGS OFFICE

OFFICE OF ADMINISTRATIVE HEARINGS  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII

In the Matter of	)	PDH 2016-002
	)	
SODERHOLM SALES AND	)	HEARINGS OFFICER'S FINDINGS OF
LEASING, INC.,	)	FACT, CONCLUSIONS OF LAW AND
	)	DECISION; EXHIBIT "A"
Petitioner,	)	
	)	
vs.	)	
	)	
DEPARTMENT OF FINANCE, COUNTY	)	
OF KAUAI,	)	
	)	
Respondent.	)	
	)	
	)	

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HEARINGS OFFICER'S FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND DECISION

I. INTRODUCTION

On May 16, 2016, Soderholm Sales and Leasing, Inc. ("Petitioner") by and through its attorney Jeffrey P. Miller, Esq. filed a request for an administrative hearing to contest the Department of Finance, County of Kauai's ("Respondent") decision to deny Petitioner's protest. The matter was set for hearing and the Notice of Hearing and Pre-Hearing Conference was duly served on the parties. The pre-hearing conference was set for May 23, 2016 and the hearing was scheduled for June 6, 2016. At the pre-hearing conference, the parties agreed to reschedule the hearing to June 20, 2016.

On June 20, 2016, the hearing was convened by the undersigned Hearings Officer. Petitioner was represented by Mr. Miller. Respondent was represented by Adam P. Roversi, Esq.

Having reviewed and considered the evidence and arguments presented, together with the entire record of this proceeding, the Hearings Officer hereby renders the following findings of fact, conclusions of law and decision.

## II. FINDINGS OF FACT

1. On March 9, 2016, Respondent issued Invitation for Bids No. 3468 for the furnishing and delivery of eight (8) wheelchair lift accessible passenger buses for the County of Kauai's Transportation Agency (IFB). The deadline for inquiries and exceptions was March 28, 2016, and a response to inquiries was due on April 4, 2016. The bid opening date was April 18, 2016 at 2:00 HST.

2. Section III of the IFB, titled "Bus Body", stated:

### Body Structure

The body shall be steel reinforced composite. (Body exterior to be constructed of full gel-coated, honeycomb fiberglass integrated into all parts above the floor line. This construction and these materials shall be homogeneous design with a structural core that contains the same polymer based resin as the outer and inner structural panel).

The bus body shall be adequately reinforced to comply with the requirements of all applicable FMVSS tests. FMVSS 220 roll-over compliance certification by a licensed PE must be included with the bid. The test report must be for the same bus body design as being proposed. Failure to include this test report will cause rejection of the bidder's proposal. (Emphasis in original.)

Where panels are lapped, the upper and/or forward panels shall overlap the lower and/or rearward panels to prevent water intrusion. All joints shall be sealed to prevent the entrance of moisture and dirt. The frame shall be attached to the understructure and securely attached to the chassis so that the entire bus will act as one unit without any movement at the joints[.]

3. By a letter dated March 28, 2016, to Kristi Mahi, Division of Purchasing, David Morris of Nations Bus Sales requested approval of Champion Bus Inc.'s steel cage construction instead of a "steel reinforced composite" for the bus body structure. Mr. Morris stated:

It has been tested to meet or exceed all FMVSS standards, including 220, and meets or exceeds EDE 66 test requirements as well. An analysis of Champion's structure was performed by the Engineering Department of Florida State University at the behest of the Florida Department of Transportation as a requirement for participating in State of Florida contracts. The results can be provided upon your request.

4. By a letter dated March 28, 2016 to Kristi Mahi, Harry Lee of A-Z Bus Sales submitted a Request for Approved Equal. The Request stated:

The body construction is proprietary to one manufacturer and the other five manufacturers use a steel frame and attached side walls. The bus we will propose uses a superior method of vacuum laminating the side walls to the steel frame which makes the bus sturdy and seals tubing and other from the elements. The bus we will propose uses galvanized steel, uses coated frame tubing which is coated inside and out to negate rusting.

Since the specified construction is proprietary to one body manufacturer, without approved equals, we will not be able to bid a bus that is popular and well received in other parts of the Country. Thank you for your consideration.

5. By a letter dated March 28, 2016, to Kristi Mahi, Respondent requested four changes to the minimum specifications of the IFB.

6. By an email dated March 30, 2016, Jeremy Lee, Program Specialist III with the Transportation Agency, and the person who drafted the IFB, asked Mr. Morris for more specific data on the Gatorshield corrosion protection, e.g. a salt spray test. Mr. Lee wanted evidence that it would withstand "our highly corrosive salt laden trade winds."

7. On April 1, 2016, Mr. Morris emailed a brochure which referenced the salt spray test and its results. The brochure indicated that for Allied Gatorshield (square), it took 1848 hours for the first sign of red rust to appear.

8. On April 6, 2016, Mr. Morris emailed more information regarding salt spray tests. Samples 11 and 12 were determined to be applicable to the IFB. Mr. Lee determined that this additional information was not enough to approve a request for approved equal.

9. On April 11, 2016, Respondent issued Addendum No. 1 to the IFB. Addendum No. 1 states in part:

Q. Request for Approved Equal: The bus we will propose uses a superior method of vacuum laminating: the side walls to the steel frame which makes the bus sturdy and seals tubing and other from the elements. The bus we will propose uses galvanized steel, uses coated frame tubing which is coated inside and out to negate rusting.

R. *Denied. Spray test reports show body frame show white and red rust would occur well before the end of federal useful life of the vehicle.*

...

Q Items 1, 2, and 3, under section III, 'Bus Body Structure' specified 'steel reinforced composite', Nations Bus Corp requests the approval of Champion Bus, Inc.'s steel cage construction.

R. *Denied. Spray test reports show body frame show white and red rust would occur well before the end of the federal useful life of the vehicle.*

10. After receiving Addendum No. 1, Petitioner finalized his bid for submission.
11. On April 14, 2016, Respondent issued Addendum No. 2 which changed the Bid Opening Date from April 18, 2016 at 2:00 p.m. HST to April 20, 2016 at 2:00 p.m. HST.
12. By an email dated April 15, 2016 to Mr. Lee, Mr. Morris expressed his disappointment that their request for steel cage construction as an approved equal was denied. Mr. Morris went on to state:

There is a concurrent solicitation on the Island of Oahu for paratransit buses, with a spec very similar to yours with one major exception, in that solicitation, steel cage construction is specified.

The denial of our request places a very heavy restriction by limiting qualified bidders to essentially one product. We respectfully request that you give our request further consideration. We believe that in doing so you will serve your own best interests as well, resulting in more competition, an improved product, and probably a better price.

13. On April 18, 2011, Respondent issued Addendum No. 3 which changed the Bid Opening Date from April 20, 2016 at 2:00 p.m. HST to April 27, 2016 at 2:00 p.m. HST.

14. By an email dated April 22, 2016, Mr. Lee confirmed that the representatives from the Transportation Agency and the Division of Purchasing, Department of Finance, were in agreement that the IFB would be amended to allow the two vendors who requested approved equals to compete in the bid solicitation. As a result, Addendum No. 4 was issued on April 22, 2016. Addendum No. 4 states in part:

The vehicle body shall have a medium duty body structure that incorporates a welded steel, aluminum or durable fiber reinforced plastic Fiberglass Reinforced Plastic (FRP) construction with a structural steel frame, with 1-1/2" tubular square steel ladder, zinc rust-treated frame, or equal to support side windows, constructed to provide maximum protection to passengers in case of roll-overs and side or rear impacts[.]

Addendum No. 4 also changed the Bid Opening Date from April 27, 2016 at 2:00 p.m. HST to May 4, 2016 at 2:00 p.m. HST. Addendum No. 4 is attached hereto and incorporated herein by reference as Exhibit "A".

15. By a letter dated April 25, 2016, Petitioner filed a protest to Addendum No. 4. This letter states in part:

1) The County of Kauai (COK), transit bus administration has the right under the procurement regulations, just like thousands of municipal transits across the country, including the other counties in Hawaii, to write bus specifications for their own particular operating environment and experience.

...

4) The COK requirement for an integral composite bus body specification was reasonable and based on experience. It has nothing to do with the safety requirements of FMVSS. It has to do with the integrity of the bus body lasting at least the federal life cycle of 5 to 7-years. If the bus body doesn't last the federal life cycle, when there are federal FTA funds being used like this bid, the COK is liable to have to return the funds. The COK has experience with metal framed buses rusting away prematurely. COK has had 150+ ElDorado buses operating since 1992 with integral composite bodies with none rusting. This is not antidotal (sic) evidence, it is fact. The bus bodies have lasted longer than the federal economic life. The County of

Maui has the same integral composite body spec in their most recent bids. The City and County of Honolulu is looking at this for their latest RFP. However whether the City changes to the integral composite bus body is irrelevant because they have the right to decide the body they need under the State Procurement Code. The City does not have the same severe operating conditions as Kauai and Maui have, as their buses are based on the leeward side of the island.

5) The COK-Purchasing Division responded to two requests for metal framed buses that were answered in Addendum NO. 1 and both denied. The denial said 'Spray test reports show body frame show white and red rust would occur well before the end of the federal useful life of the vehicle.' Yes, the IFB did not require salt spray tests. But this just justified the COK original bus body specification, and why the COK denied the requests in Addendum NO. 1. The ElDorado Bus bodies being integral honeycomb composite are not made out of steel which is a form of iron, and thus inherently can't rust as the definition of rust is the oxidation of iron.

6) The COK Purchasing should not be writing bus specifications. That should be done by the experienced staff of the COK transit agency. The COK Purchasing should not dumb down the bus specifications just to allow in inferior bus bodies that won't last even the federal useful life. There is nothing in the State Procurement Code that requires the COK to have bus specifications that every bus builder can meet.

7) The COK – Purchasing Division cannot now flip flop from Addendum NO. 1 to Addendum NO. 4, and grant those request (sic) to allow a metal framed bus. To do so would show the COK's bid process lacks integrity. The integral composite body specification in the IFB was reasonable and based on experience. COK Purchasing cannot now approve a request that was previously justifiably denied without sacrificing the integrity of the entire bid process.

We therefore based on the above, request the COK to rescind Addendum NO. 4, and restore the integrity of the original IFB #3468.

16. By a letter dated May 10, 2016, Respondent issued a Final Decision on Petitioner's protest. This letter states in part:

Hawaii Administrative Rules ('HAR') § 3-126-1 defines '[p]rotestor' as an offeror 'who is aggrieved in connection with the solicitation...' The Protest fails to substantiate any injury in fact.

...

Speculating as to the basis of the Protest, the mere fact that the IFB was amended to remove an unduly restrictive specification not essential for the Agency's needs and, as a result increased competition to Soderholm is not a violation of State laws or regulations but furthers the intent and purpose of the procurement code. (Footnote omitted.)

...

The specifications for IFB 3468 ensured the needs of the Agency were met concomitantly with the maximum practicable competition all in compliance with State laws and regulations.

The Procurement Code applies to the County in the same manner as it applies to the State. The County has the authority pursuant to Hawaii Revised Statutes ("HRS") and HAR to determine and use specifications that are adequate and suitable for its needs. The County is required to use specifications that promote overall competition by avoiding unduly restrictive specifications and unique requirements. (All footnotes omitted,)

The involvement of the County Procurement Office in the development of the specifications for IFB 3468 complied with State laws and regulations...The CPO obtained the expert advice and assistance of the Agency in the development of the specifications for IFB 3468 and the IFB 3468 Addenda.

The integrity of the bidding process is enhanced where addendums are issued which result in clarifications that serve the Agency's needs and increase competition.

Bid integrity is not a basis for an HRS § 103D-701 protest. Assuming arguendo that a negative impact to bid integrity is a basis for a protest, the County denies that its actions had a

negative impact to the bid integrity. The County denied the request for equals in Addendum No. 1 based on the facts and information known to it at the time. As a result of the multiple requests for equals, the County conducted independent research and concluded that the requests for equals would have served the needs of the Agency. Consequently, the denial of the request for equals in Addendum No. 1 was unduly restrictive and precluded competition.

HAR § 3-122-16.06 'Amendment and Clarification to Solicitation' governs addendums and does not prohibit the amendment of bid specifications.

...

The County asserts that the context of any addendum is crucial to integrity determinations. The County bases its assertion on HRS § 103D-101, which among other requirements, requires public employees to act as a fiduciary and trustee of public moneys, act only in the public interest, and encourage economic competition by ensuring that all persons are afforded equal opportunity to compete in a fair and open environment[.]

17. On May 16, 2016, Petitioner filed a request for administrative review of Respondent's denial of its protest with the Office of Administrative Hearings, Department of Commerce and Consumer Affairs ("DCCA"). Petitioner identified the protest arguments as: (1) "SSL Has Standing to Protest the IFB", and (2) "The Solicitation Is In Violation Of The Law". Petitioner requested that the denial of Petitioner's protest be vacated, reversed or set aside, that the protest be sustained, that the IFB be revised to specifically require that any bidder must use a composite bus body, or that the IFB be cancelled.

18. Erik Soderholm, Petitioner's Vice President of Sales and Leasing, testified that the composite bus is standard in Hawaii. Mr. Soderholm has been selling buses to Respondent since 1992 and the only steel body buses he sold to Respondent were low floor buses. Petitioner is a licensed bus dealer for ElDorado National, which makes both steel body and composite buses. Composite buses are more expensive than steel body buses.



19. It is Mr. Soderholm's opinion that a steel body bus will not meet the federally required economic life of four to seven years and that Respondent will have to give back federal funds if the bus does not last that long.

20. It is Mr. Soderholm's opinion that Respondent's buses are subject to heavy salt spray because the bus yard is located on the windward side of the island.

21. Mr. Soderholm believes that Respondent's transportation people wanted a composite bus but Respondent's procurement people wanted a steel body bus,

22. Mr. Soderholm believes that as long as Respondent has a reasonable reason to require something, then it is OK with the Procurement Code.

23. When Mr. Lee initially drafted the IFB, he didn't consider using steel or aluminum frame buses because composite buses worked for them in the past.

24. Mr. Lee has experience with steel body buses because Respondent has four of them, which were purchased in 2006 from Petitioner. There are no rust problems with those buses.

25. With respect to Addendum No. 1, the format was given to Mr. Lee by the Purchasing Division but the answers to the questions were drafted by Mr. Lee.

26. According to Mr. Lee, the federal useful life of a vehicle is by mileage or years. For this procurement, it is 150,000 miles or three to five years.

27. After finding out that the City and County of Honolulu was including steel body buses in their bids, Mr. Lee believed that it was his responsibility to double check into whether allowing a steel body bus construction would be appropriate for this procurement. He did his due diligence by talking to people at the City and County of Honolulu and he obtained the language used in Addendum No. 4 regarding steel body buses from the City and County of Honolulu.

28. Mr. Lee also came to a better understanding of the salt spray tests. He discovered that the salt spray test consisted of continuously spraying a 5% solution of saline on a piece of metal until white or red rust appears. Mr. Lee concluded that this would not happen on a completed bus because the steel is enclosed on the two buses proposed by the two vendors.

29. It was Mr. Lee's decision, with the approval of his supervisor, to include metal frame buses in the IFB. Mr. Lee's decision was based on the fact that: (1) there are no

rust problems with the steel framed buses purchased from Petitioner in 2006, (2) his determination from a better understanding of the salt spray test that the results of the test did not necessarily mean that the bus would rust before the end of its federal useful life, (3) information he received from the City and County of Honolulu, and (4) his interest to have more competition among bidders, which he hoped would result in less costly bids and save the County of Kauai some money. A metal frame bus is a standard commercial product. The Purchasing Division did not pressure Mr. Lee to include metal frame buses.

30. Mr. Lee agreed that composite buses are standard for paratransit buses in Hawaii. Mr. Lee also agreed that composite buses are good vehicles that do not rust, that there is good support for the vehicles, and that the procurement of those buses was considered a success.

### III. CONCLUSIONS OF LAW

The issue to be resolved is whether Respondent violated the Procurement Code by amending the IFB to permit metal frame buses in addition to composite buses. Petitioner has the burden of proving by a preponderance of the evidence that Respondent's determinations were not in accordance with the Constitution, statutes, regulations and terms and conditions of the solicitation or contract.

#### A. Standing

Respondent asserted that Petitioner was not an offeror aggrieved or a valid protestor under Hawaii Administrative Rules ("HAR") § 3-126-1 because it has not suffered an injury in fact. A "protestor" is defined as "any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or the award of a contract and who files a protest." The evidence presented showed that Petitioner was a prospective bidder as it submitted an inquiry to Respondent on March 28, 2016 along with two other companies who submitted requests for approved equals. In *AlohaCare v. Ito, et al.*, 126 Haw. 326, 271 P.3d 621 (2012), the Hawaii Supreme Court found that a "person aggrieved" was essentially synonymous with someone who had suffered an "injury in fact". Whether a party has suffered an "injury in fact" is determined under a three-part test:

- (1) Whether the person 'has suffered an actual or threatened injury as a result of the [agency decision]', (2)
- whether 'the injury is fairly traceable to the [agency

decision],’ and (3) whether ‘a favorable decision would likely provide relief for [the person’s] injury.’

*Id.*, at 342-343, 637-638. In *AlohaCare*, the Court found that AlohaCare “sustained a concrete injury because it faced increased competition from allegedly improperly licensed competitors in the QExA contract process and the Decision held that AlohaCare’s competitors were in fact properly licensed to offer the services required under those contracts.” *Id.*, at 343, 638. As in *AlohaCare*, Petitioner in this case faces increased competition because of Respondent’s determination that it will accept metal frame buses, as described in Addendum No. 4. Petitioner’s injury of increased competition is fairly traceable to Addendum No. 4 and a favorable decision would provide Petitioner relief from its injury because if Petitioner prevails and the protest is sustained, Petitioner would be relieved from competition. Accordingly, the Hearings Officer concludes that Petitioner has standing to pursue this appeal.

**B. Solicitation in Violation of the Law**

Petitioner argued that Addendum No. 4 violated : (1) HAR § 3-122-13(b)(2) by allowing a specification that does not meet the County’s own performance requirement and (2) the Procurement Code because by issuing it, Respondent abandoned its fiduciary duty to foster fiscal responsibility and accountability and increase public confidence in the integrity of the system.

Hawaii Administrative Rules § 3-122-13(b)(2) provides:

**§ 3-122-13 Development of specifications.**

...

(b) Types of specifications include the following and may be used in combination when developing the specification:

...

(2) Performance specifications describes the capabilities that the product must meet, use of test or criteria are developed to measure the item’s ability to perform as required[.]

Petitioner contends that Respondent violated HAR § 3-122-13(b)(2) by allowing a specification that does not meet its own performance requirement. Petitioner contends that Respondent did this by developing performance specifications in the IFB (composite body structure to prevent rust) and then reversing itself without explanation or justification by issuing Addendum No. 4 which allows metal frame buses. The evidence presented showed that the IFB initially required a composite body bus, and that requests for equals from two prospective bidders proposing the use of metal frame buses were denied by Respondent, based on the information it had at the time, via Addendum No. 1. The evidence presented also showed that after Addendum No. 1 was issued, Respondent received information regarding metal frame buses which it deemed credible enough to warrant further investigation and consideration. After issuing Addendum Nos. 2 and 3 to give it more time to do its due diligence, Respondent then issued Addendum No. 4, which allowed bidders to supply metal frame buses after determining that metal frame buses would meet federal useful life requirements and save the County of Kauai money by having more competition among bidders. As Petitioner did not show that Respondent's determination is unreasonable, or that Respondent's research and investigation into this issue was deficient or faulty, based on the evidence presented, the Hearings Officer concludes that Petitioner did not prove by a preponderance of the evidence that Respondent violated HAR § 3-122-13(b)(2) or that Respondent's decision to issue Addendum No. 4 was arbitrary and capricious.

Petitioner also argued that Respondent violated the Procurement Code by abandoning its fiduciary duty to foster fiscal responsibility and accountability and increase public confidence in the integrity of the system. This argument is based on Petitioner's contention that metal frame buses will not meet federal useful life requirements, which would then require Respondent to return the federal funds used to purchase the buses. However, it was not shown that Respondent acted arbitrarily and capriciously by issuing Addendum No. 4 and the Petitioner failed to show by a preponderance of the evidence that metal frame buses will rust before the end of its federal useful life. Accordingly, the Hearings Officer finds that by expanding the pool of possible bidders, Respondent is acting in the public interest by encouraging economic competition and ensuring that all persons are afforded an equal opportunity to compete in a fair and open environment.

IV. FINAL ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Hearings Officer finds that Petitioner failed to show that Respondent's denial of Petitioner's bid protest was improper and not in accordance with the Constitution, statutes, regulations and terms and conditions of the solicitation. Accordingly, Respondent's denial of Petitioner's bid protest is affirmed. The parties will bear their own attorney's fees and costs incurred in pursuing this matter.

DATED: Honolulu, Hawaii, JUN 29 2016.



SHERYL LEE A. NAGATA  
Administrative Hearings Officer  
Department of Commerce  
and Consumer Affairs

FURNISHING AND DELIVERY OF  
EIGHT (8) EACH WHEELCHAIR LIFT ACCESSIBLE  
PASSENGER BUSES  
FOR THE COUNTY OF KAUAI

INVITATION FOR BID NO. 3468

ADDENDUM NO. 4

April 22, 2016

TO ALL PROSPECTIVE OFFERORS:

The following (note: changes made in bold) shall be made and incorporated as part of invitation for Bid Document No. 3468:

- I. The Bid Opening date shall be changed from April 27, 2016, 2:00 p.m. HST to May 4, 2016, 2:00 p.m. HST.

II. MINIMUM SPECIFICATIONS

A. ITEM 1

- I. Page 69, Section III. BUS BODY. DELETE Paragraphs 1-3 in its entirety and REPLACE with the following:

BODY STRUCTURE

The vehicle body shall have a medium duty body structure that incorporates a welded steel, aluminum, or durable fiber reinforced plastic Fiberglass Reinforced Plastic (FRP) construction with a structural steel frame, with 1-1/2" tubular square steel ladder, zinc rust-treated frame or equal to support side windows, constructed to provide maximum protection to passengers in case of roll-overs and side or rear impacts. The vehicle body shall be adequately reinforced at all structural elements, joints, and points of stress with sufficient strength to comply with the requirements of all applicable FMVSS tests. The entire unit shall meet requirements of FMVSS 220, school bus roll-over protection. FMVSS 220 roll-over compliance certification by a licensed PE must be included with bid. The test report must be for the same bus body design as being proposed. Failure to include this test report will cause rejection of the bidder's proposal.

The outside covering or "skin" of the vehicle body shall be galvanized steel, aluminum, and/or fiberglass. Exterior panels

shall be sufficiently stiff to prevent vibration, drumming, or flexing while the vehicle is in service.

Where panels are lapped, the upper and/or forward panels shall overlap the lower and/or rearward panels to prevent water intrusion. All joints shall be sealed to prevent the entrance of moisture and dirt. The frame shall be attached to the understructure and securely attached to the chassis so that the entire vehicle will act as one unit without any movement at the joints. The entire unit shall be adequately reinforced with structural steel to carry the required payload and withstand road shocks."

B. ITEM 2

1. Page 84, Section III. BUS BODY. DELETE Paragraphs 1-3 in its entirety and REPLACE with the following:

"BODY STRUCTURE

The vehicle body shall have a medium duty body structure that incorporates a welded steel, aluminum, or durable fiber reinforced plastic Fiberglass Reinforced Plastic (FRP) construction with a structural steel frame, with 1-1/2" tubular square steel ladder, zinc rust-treated frame or equal to support side windows, constructed to provide maximum protection to passengers in case of roll-overs and side or rear impacts. The vehicle body shall be adequately reinforced at all structural elements, joints, and points of stress with sufficient strength to comply with the requirements of all applicable FMVSS tests. The entire unit shall meet requirements of FMVSS 220, school bus roll-over protection. FMVSS 220 roll-over compliance certification by a licensed PE must be included with bid. The test report must be for the same bus body design as being proposed. Failure to include this test report will cause rejection of the bidder's proposal.

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C. ITEM 3


1. Page 98-99, Section III. BUS BODY, DELETE Paragraphs 1-3 in its entirety and REPLACE with the following:

"BODY STRUCTURE

The vehicle body shall have a medium duty body structure that incorporates a welded steel, aluminum, or durable fiber reinforced plastic Fiberglass Reinforced Plastic (FRP) construction with a structural steel frame, with 1-1/2" tubular square steel ladder, zinc rust-treated frame or equal to support side windows, constructed to provide maximum protection to passengers in case of roll-overs and side or rear impacts. The vehicle body shall be adequately reinforced at all structural elements, joints, and points of stress with sufficient strength to comply with the requirements of all applicable FMVSS tests. The entire unit shall meet requirements of FMVSS 220, school bus roll-over protection. FMVSS 220 roll-over compliance certification by a licensed PE must be included with bid. The test report must be for the same bus body design as being proposed. Failure to include this test report will cause rejection of the bidder's proposal.

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ERNEST W. BARRIERA, M.S.  
Assistant Chief Procurement Officer