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HEARINGS OFFICE

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

In the Matter of

SODERHOLM SALES AND LEASING,
INC.,

Petitioner,

vs.

DEPARTMENT OF FINANCE, COUNTY
OF MAUI,

Respondent.

PDH-2025-001

PDH-2025-002

[CONSOLIDATED CASES]

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

Administrative Hearings Officer:
Natalia T. Chan

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

I. INTRODUCTION

On May 20, 2025, Soderholm Sales and Leasing, Inc. ("Petitioner" or "SSL"), filed requests for administrative review to contest the Department of Finance, County of Maui's ("Respondent" or "County") denials of SSL's bid protests in connection with IFB No. 24-25/P-128 and IFB No. 24-25/P-136 (collectively, "subject IFBs").

On May 23, 2025, the cases were consolidated.

On May 28, 2025, Petitioner filed Petitioner Soderholm Sales and Leasing, Inc.'s Motion for Summary Judgment ("MSJ").

On June 2, 2025, Respondent filed Respondent Department of Finance, County of Maui's Memorandum in Opposition to Petitioner Soderholm Sales and Leasing, Inc.'s Motion for Summary Judgment ("MIO").

On June 4, 2025, Petitioner filed Petitioner Soderholm Sales and Leasing, Inc.'s Reply Memorandum in Support of Motion for Summary Judgment ("Reply").

On June 9, 2025, the consolidated cases came on for hearing pursuant to Hawaii Revised Statutes (“HRS”) chapters 91, 92, and 103D and Hawaii Administrative Rules (“HAR”) title 3, chapter 126. Jeffrey P. Miller, Esq., appeared on behalf of Petitioner, and Deputy Corporation Counsel Kenton S. Werk appeared on behalf of Respondent.

Following the parties’ oral arguments on the MSJ, the Hearings Officer denied the MSJ, and the cases proceeded to hearing. The Hearings Officer admitted joint exhibits J-1 through J-14 into evidence, took administrative notice of the County of Maui’s official website, <https://www.mauicounty.gov/>, and confirmed the parties’ agreement that Petitioner’s requests for administrative review were not frivolous or made in bad faith.

R. Erik Soderholm, vice president and part owner of SSL, and Gabrielle Soderholm, a corporate officer of SSL, testified for Petitioner. Marc Takamori, director of the Department of Transportation, County of Maui, and Jared Masuda, a purchasing administrator for the Department of Finance, County of Maui, testified for Respondent.

Having considered the evidence and arguments at the hearing and the exhibits, records, and files in this proceeding, the Hearings Officer AFFIRMS Respondent’s denials of SSL’s bid protests based on the following findings of fact and conclusions of law.

II. FINDINGS OF FACT¹

1. On February 19, 2025, the County posted a Notice to Bidders for IFB No. 24-25/P-128, which solicited the furnishing and delivery of “one (1) thirty-five foot heavy-duty low-floor front & mid door body accessible 12 year transit type diesel bus.” (Ex. J-1; <https://www.mauicounty.gov/bids.aspx?bidID=3595>.)

2. On February 28, 2025, the County posted a Notice to Bidders for IFB No. 24-25/P-136, which solicited the furnishing and delivery of “one (1) or more forty foot heavy-duty low-floor front door body accessible 12 year commuter transit type diesel bus.” (Ex. J-8; <https://www.mauicounty.gov/bids.aspx?bidID=3605>.)

3. One bid specification in the “structure” section of the subject IFBs states: “The frame assembly (front, center and rear are welded together) shall consist of a stainless-steel structure with integral side impact barriers” (“Frame Assembly Specification”). (Ex. J-1 at 000019; Ex. J-8 at 000122.)

¹ If any of the findings of fact are deemed conclusions of law, the Hearings Officer adopts those facts as conclusions of law.

4. Only SSL and Gillig, LLC (“Gillig”), submitted bids for IFB 24-25/P-128 and IFB 24-25/P-136, which the County opened on April 25 and April 28, 2025, respectively. (<https://www.mauicounty.gov/bids.aspx?bidID=3595>; <https://www.mauicounty.gov/bids.aspx?bidID=3605>.)

5. SSL’s bids specify a bus with an integrated body “structurally fabricated using 100% 304-Grade stainless steel rectangular tubing, plate, and formed sheet welded into a 100% monocoque² type space frame.” (Ex. J-2 at 000064; Ex. J-9 at 000167.)

6. Gillig’s bids specify a bus with a “low floor consist[ing] of a stainless-steel structure with integral side impact barriers” and “three chassis modules (front, center, and rear) [] constructed of both open and tubular section structural shapes that are welded together.” (Ex. J-5 at 000079; Ex. J-12 at 000179.) The body is made of aluminum, and the chassis, with side impact barriers, is made of stainless steel. (Ex. J-2 at 000066; Ex. J-9 at 000168.)

7. SSL’s bids for the “integrally welded monocoque 304-stainless steel body and chassis” are more expensive than Gillig’s bids. (Ex. J-2 at 000065; Ex. J-9 at 000167.)

8. SSL sent Letters of Concern, received by the County on April 28, 2025, stating that Gillig’s bids are nonresponsive to the subject IFBs. (Ex. J-2; Ex. J-9.)

9. On May 1, 2025, the County sent SSL response letters stating that Gillig’s bids are responsive and that the County intended to award the contracts to Gillig. (Ex. J-3; Ex. J-10.)

10. On May 7, 2025, SSL submitted bid protests to the County, requesting that the County reject Gillig’s bids as nonresponsive to the subject IFBs. (Ex. J-4; Ex. J-11.)

11. On May 13, 2025, the County denied SSL’s bid protests on the basis that Gillig’s bids are responsive. (Ex. J-5; Ex. J-12.) Each of the denials explained, in pertinent part:

While SSL relies on the dictionary definition of “integral”, they fail to recognize that this term applies specifically to the “side impact barriers”, not the bus’s “full body and chassis.” Within the specifications, the “frame assembly” constitutes the crucial ground-level structural foundation of the bus. The County requires this assembly to be constructed of welded stainless steel to provide inherent strength and corrosion resistance to the part of the frame closest to the roadway. SSL significantly misquotes the specification, stating that “the Gillig bid is nonresponsive because it does not meet the [subject IFB’s] bid requirement that

² “Monocoque” means “a type of vehicle construction (as of an automobile) in which the body is integral with the chassis.” *Monocoque*, MERRIAM-WEBSTER (Online ed. 2025).

the full body and chassis consist entirely of stainless steel.” A similar misquotation of the actual bid language appears later in the protest letter: “The SSL bid complies with the [subject IFB’s] bid requirement that *the full body and chassis consist entirely of stainless steel.*” However, no such requirement exists within the specification that “the full body and chassis consist entirely of stainless steel.”

It is further argued in your protest letter that the “IFB requires that the frame assembly be welded together”, that “Gillig is nonresponsive because it is designed as a body on chassis build using mostly aluminum”, and that “aluminum and stainless steel cannot be welded together.” The County agrees that the IFB called for the front, center and rear portions of the frame assembly to be welded together. However, nowhere in the specifications does it state that a body on chassis is prohibited, nor is there any requirement that the low floor body structure and chassis needs to be welded together. Gillig’s submission, which specifies that the “low floor consists of a stainless-steel structure with integral side impact barriers” and that “the three chassis modules (front, center, and rear) are constructed of both open and tubular section structural shapes that are welded together”, fully meets the bid specifications.

[. . .]

The current operational fleet includes buses with the “full body all stainless-steel chassis” construction, demonstrating familiarity with this design. Nevertheless, in drafting the bid specifications, an intentional departure from that requirement was made to adopt a design in favor of improved engineering effectiveness.

(Ex. J-5; Ex. J-12.)

12. On May 20, 2025, SSL filed requests for administrative review with the Office of Administrative Hearings, requesting that: (1) the County’s denials of SSL’s bid protests be vacated, reversed, or set aside; and (2) the Hearings Officer order that the County reject Gillig’s bids as nonresponsive. (Ex. J-6; Ex. J-13.)

III. CONCLUSIONS OF LAW³

A. **Petitioner's Motion for Summary Judgment**

1. **Standard for summary judgment.**

Summary judgment is appropriate “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” H.R.C.P. Rule 56(c); *Amfac, Inc. v. Waikiki Beachcomber Inv. Co.*, 839 P.2d 10, 15 (Haw. 1992) (citation omitted). “[A] fact is material if proof of that fact would have the effect of establishing or refuting one of the essential elements of a cause of action or defense asserted by the parties.” *Hunt v. Chang*, 594 P.2d 118, 124 (Haw. 1979) (citations omitted). The evidence and inferences drawn therefrom must be “viewed in the light most favorable to the nonmoving party.” *Heatherly v. Hilton Hawaiian Village Joint Venture*, 893 P.2d 779, 786 (Haw. 1995) (citation omitted). The nonmoving or adverse party “may not rest upon the mere allegations or denials of the adverse party’s pleading, but the adverse party’s response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial.” *Ralson v. Yim*, 292 P.3d 1276, 1286 (Haw. 2013) (citing H.R.C.P. Rule 56(e)). “Bare allegations or factually unsupported conclusions are insufficient to raise a genuine issue of material fact[.]” *Reed v. City and County of Honolulu*, 873 P.2d 98, 104 (Haw. 1994) (citations omitted).

2. **The Hearings Officer denies Petitioner’s MSJ because these cases involve genuine issues of material fact.**

These cases present genuine issues of material fact that do not entitle Petitioner to judgment as a matter of law that Gillig’s bids are nonresponsive⁴ to the subject IFBs. In its MSJ, Petitioner does not specify which material facts are undisputed. Instead, Petitioner argues its interpretation of the Frame Assembly Specification and that Gillig’s bids are nonresponsive for failing to meet that specification. Later, in its Reply, Petitioner states that “both parties agree to the wording” of the Frame Assembly Specification and “only disagree about the meaning of the words.” (Reply at 2.)

³ If any of the conclusions of law are deemed findings of fact, the Hearings Officer adopts those conclusions as findings of fact.

⁴ A bid is nonresponsive if it does not conform in all material respects to the IFB. HRS § 103D-302(h); HAR § 3-122-97(a)(2).

Petitioner argues that the Frame Assembly Specification plainly means that “the full body and chassis shall consist entirely of stainless steel.” (MSJ at 5.) Petitioner contends that Gillig’s bids are nonresponsive because they specify a bus with an aluminum body and a stainless-steel chassis. (*Id.*) Petitioner notes that the “structure” section of the bid specifications “does not specify that only the chassis must be stainless-steel and that the body can consist of aluminum” and does not even contain the words “chassis,” “body,” and “aluminum.” (*Id.* at 4-5.)

In addition, Petitioner contends that Gillig’s bids do not satisfy the “integrally welded” requirement of the Frame Assembly Specification because Gillig’s aluminum body is bolted, rather than welded, to the stainless-steel chassis. (*Id.* at 5.) “Aluminum and stainless steel cannot be welded, and thus the structure is not integral.” (*Id.*) Petitioner also cites the dictionary definition of “integral”: (1) essential to completeness: constituent; (2) composed of constituent parts, and (3) lacking nothing essential: entire. (*Id.*)

Petitioner asserts that the County’s “intentional departure” from the “full body all stainless-steel chassis” requirement “was likely referring to the definition used in IFB No. 17/18/P-19,” which required the frame assembly to be “an integrally welded floor/sidewall/roof structure, fabricated using high-strength low carbon stainless steel into a single monocoque space frame.” (MSJ at 6; G. Soderholm Decl. at ¶ 2, attached to MSJ.) Petitioner argues that the subject IFBs, “like IFB No. 17/18/P-19, provide[] for a frame assembly that shall consist of stainless steel with integral side impact barriers,” rather than “a stainless steel chassis with an aluminum body bolted on top of it.” (MSJ at 7.)

Petitioner argues that “[a]lternatively, the language of the [subject] IFBs is ambiguous and should be construed against the drafter” and “[t]he Hearings Officer should determine that the [subject IFBs are] ambiguous with respect to the specifications of the Structure and construe its language against the County.” (MSJ at 5 and 7.) Petitioner notes that “[o]mitting the requirement of a single monocoque space frame only creates ambiguity to the specification.” (*Id.* at 7.) However, Petitioner appears to later change its position, arguing in its Reply that “[n]o ambiguity exists with respect to the meaning of the Structure specification” and citing authority that disagreement over the meaning of a contract does not render it ambiguous. (Reply at 2.) During oral argument, the parties agreed that the language of the Frame Assembly Specification is unambiguous.

In its MIO, Respondent disputes Petitioner’s interpretation of the Frame Assembly Specification and maintains that Gillig’s bids are responsive. The MIO is not accompanied by

affidavits but cites the subject IFBs (Ex. J-1; Ex. J-8) to factually support Respondent's interpretation of the Frame Assembly Specification. Respondent states: "As one familiar with bus construction techniques and methodologies, SSL knows that the term 'frame assembly' is but **one component** of either a body on frame or unibody bus construction. To leap from 'the **frame assembly** . . . shall consist of a stainless-steel structure' to 'the **whole body frame**' shall consist of a stainless-steel structure . . . is disingenuous." (MIO at 3, emphasis added.) Contrary to Petitioner's assertion, Respondent notes that the "structure" section: (1) does mention "body" and "aluminum" in specifying what is expressly required or prohibited in certain bus components; and (2) requires stainless steel for only certain bus components, and not the "whole body frame" or the "full body and chassis," as Petitioner contends. (*Id.* at 3-4.)

Respondent also disputes Petitioner's interpretation of the word "integral" in the Frame Assembly Specification. According to Respondent, "integral" applies specifically to "side impact barriers," and "integral side impact barriers" means that "the **side impact barriers** are to be **integrated** into the frame assembly as a **single stainless-steel component**." (*Id.* at 4, emphasis added.) Respondent also maintains that only the front, center, and rear portions of the frame assembly must be welded together, and not the body and chassis. (*Id.*) Respondent notes that the bid specifications do not expressly prohibit a body-on-chassis build and that Gillig's bids meet the Frame Assembly Specification. (*Id.* at 4-5.)

Based on the parties' arguments, Petitioner and Respondent dispute the interpretation of the Frame Assembly Specification, including, but not limited to: the meaning of "frame assembly" and "integral"; what must be stainless steel; what must be welded; what the "structure" section expressly prohibits and expressly requires; and whether a body-on-chassis build is permitted. All of these are material facts because they are central to determining whether Gillig's bids meet the Frame Assembly Specification. Drawing all inferences in the light most favorable to Respondent as the nonmoving party, these disputed material facts present genuine issues for hearing, and Petitioner is therefore not entitled to judgment as a matter of law. Consequently, Petitioner's MSJ is DENIED.⁵

⁵ Section III, ¶ C of this decision addresses the merits of arguments in support of and in opposition to the MSJ, except for new facts or new legal arguments raised for the first time during oral argument. "A party making or opposing a motion for summary judgment may only rely on facts which are before the court as provided in Rule 56, H.R.C.P." *Au v. Au*, 626 P.2d 173, 177-78 (Haw. 1981) (citations omitted). "Unverified statements of fact in counsel's memorandum or representations made in oral argument cannot be considered in determining a motion for summary judgment." *Id.* at 178.

B. Standards for jurisdiction and burden of proof.

The hearings officer has jurisdiction to review determinations made pursuant to HRS § 103D-701 de novo. HRS § 103D-709(a). The hearings officer has jurisdiction and authority to act on a protested solicitation or award in the same manner and to the same extent as contracting officials authorized to resolve protests under HRS § 103D-701. *Carl Corp. v. State of Hawaii, Dept. of Educ.*, 946 P.2d 1, 26 (Haw. 1997). The hearings officer must decide whether the determination was “in accordance with the Constitution, statutes, rules, and the terms and conditions of the solicitation or contract and shall order such relief as may be appropriate.” HRS § 103D-709(i).

Petitioner has the burden of proof, including the burden of producing evidence and the burden of persuasion, by a preponderance of the evidence. HRS § 103D-709(c); HAR § 3-126-56(c). Accordingly, to prevail, Petitioner must prove by a preponderance of the evidence that the County’s denials of SSL’s bid protests were not in accordance with the Constitution, statutes, rules, and terms and conditions of the solicitation or contract.

C. The County properly denied SSL’s bid protests because Gillig’s bids meet the Frame Assembly Specification in the subject IFBs.

The Office of Administrative Hearings has held that “[c]ontract or solicitation terms are normally interpreted according to their plain, ordinary, and accepted sense in common speech.” *Soderholm Sales and Leasing, Inc. v. City & County of Honolulu, Dep’t of Budget & Fiscal Servs.*, PCH-2011-10 (Oct. 27, 2011). In addition, “[t]he drafting of specifications to reflect the minimum needs of the agency is a matter primarily left to the discretion of the procurement officials” because they “are most familiar with the conditions under which similar services have been procured in the past and are in the best position to know the government’s needs.” *John B. Hinton, dba J.B.H. v. Dep’t of Land & Natural Res.*, PCH-2005-3 (June 21, 2005). As the procurement officials preparing the subject IFBs and, under HRS § 103D-302, evaluating the bids based on the requirements and criteria set forth in the subject IFBs, the County of Maui’s Department of Transportation and Department of Finance are “most familiar with the conditions under which similar services have been procured in the past and are in the best position to know the government’s needs.” Consequently, deference must be given to the County’s expertise and experience in preparing and interpreting its own bid specifications, including the Frame Assembly Specification.

According to Director Takamori, the “frame assembly” is also known as the “floor assembly” or “chassis” and is only one component of the bus. He testified that he understood

what the County was seeking in the subject IFBs and that the County wanted to procure a bus with limited corrosion in high-corrosion areas like the frame assembly. This testimony accords with the County's explanation in its denials that the frame assembly "constitutes the crucial ground-level structural foundation of the bus" and must "be constructed of welded stainless steel to provide inherent strength and corrosion resistance to the part of the frame closest to the roadway."

In addition, Director Takamori testified that the front, center, and rear portions of the frame assembly must be welded together and that "integral side impact barriers" means that side impact barriers must be integrated or built into the frame assembly (i.e., floor assembly or chassis) to protect riders from side impact during a collision. This comports with the County's explanation in its denials that "integral" specifically modifies "side impact barriers."

Director Takamori's testimony is credible because he was a procurement official involved in preparing the specifications for the subject IFBs. His testimony also accords with the County's May 13, 2025, denial letters prepared by Jared Masuda. Accordingly, the plain meaning of the Frame Assembly Specification is that the frame assembly (i.e., floor assembly or chassis) must be made of stainless steel, must have integral side impact barriers, and must have its front, center, and rear welded together.

Gillig's bids specify a bus with an aluminum body bolted to a stainless-steel chassis, where the "low floor consists of a stainless-steel structure with integral side impact barriers" and "three chassis modules (front, center, and rear) [] constructed of both open and tubular section structural shapes that are welded together." Based on this description, Gillig's bids comply with the Frame Assembly Specification in the subject IFBs.

The record does not support Petitioner's alternative interpretation of the Frame Assembly Specification—namely, that the entire bus structure, including the body, chassis, floor, sidewalls, and roof, be made of stainless steel.⁶ According to Gabrielle Soderholm, the "frame assembly" definition in IFB No. 17/18/P-19 shows the County's historic use of that term and therefore applies to the subject IFBs. However, the County's denials expressly state that the County intentionally departed from the requirement of "full body all stainless-steel chassis construction . . . to adopt a design in favor of improved engineering effectiveness."

⁶ Petitioner's bid protests stated that the Frame Assembly Specification requires that "the **full body and chassis** consist entirely of stainless steel." (Ex. J-4 at 000073; Ex. J-11 at 000174, emphasis added.) At the hearing, Petitioner testified that the Frame Assembly Specification requires that the **entire bus structure**, including the floor, sidewalls, and roof, be made of stainless steel. (R. Soderholm Test.)

Director Takamori also testified that the County intentionally deviated from the “frame assembly” definition in IFB No. 17/18/P-19 because the only bus manufacturer that could have complied with that requirement (i.e., ElDorado) was no longer operating, and the County modified the Frame Assembly Specification in the subject IFBs to solicit bids from other bus manufacturers. Accordingly, Petitioner’s representation that the “frame assembly” definition in IFB No. 17/18/P-19 applies to the subject IFBs is speculative and not supported by the evidence.

Next, Petitioner argues that the Frame Assembly Specification requires the entire bus structure to be made of stainless steel because the “structure” section of the bid specifications does not: contain the words “chassis,” “body,” and “aluminum”; specify that only the chassis must be stainless steel and that the body can be aluminum; and require a certain material for the roof. These arguments are not persuasive. First, the “structure” section need not refer to “chassis” because that word is interchangeable with “frame assembly.” Second, the “structure” section does, in fact, mention “body” and “aluminum” to further specify components and materials:

- “Exterior **Body** Panels shall be various light weight, durable **aluminum** materials which provide a smooth surface without exposed fasteners except at window line lap seam.”
- “All interior **body** panels shall be made from graffiti resistant melamine Angel White in color or determined at the pre-production meeting.”
- “Stainless steel exterior **body** screws/fasteners.”

(Ex. J-1 at 000019; Ex. J-8 at 000122, emphasis added.) Third, the “structure” section need not specify that **only** the chassis be made of stainless steel because the section already requires the “frame assembly” (i.e., floor assembly or chassis), as well as other components (e.g., wheelwells, stepwells, rear engine bulkhead, bolts, screws/fasteners), to be stainless steel. Fourth, the absence of a specification that the body can be aluminum does not mean an aluminum body is prohibited. The “structure” section expressly notes the materials prohibited and materials required for only **certain** bus components, e.g.: “The rear engine bulkhead extending from the floor of the bus to the roof, and sidewall to sidewall **shall** be fabricated of welded **stainless steel**. The use of **carbon steel or fiberglass** is **expressly prohibited** as a rear engine bulkhead material.” (Ex. J-1 at 000019; Ex. J-8 at 000122, emphasis added.)

Similarly, the lack of a specification for roof material does not mean that the entire bus structure must consist of stainless steel.

Lastly, Petitioner argues that Gillig's body-on-chassis build does not meet the "integrally welded" requirement of the Frame Assembly Specification because the aluminum body is bolted, rather than welded, to the stainless-steel chassis. This argument is erroneous because the Frame Assembly Specification does not require the body to be welded to the chassis. The word "integral" applies only to "side impact barriers," and not to "frame assembly." Moreover, Petitioner fails to explain how its cited definition of "integral" supports its contention that Gillig's bids are nonresponsive to the subject IFBs.

IV. DECISION

Based on the foregoing findings of fact and conclusions of law, the Hearings Officer finds that Petitioner has not proven by a preponderance of the evidence that Gillig's bids are nonresponsive to the subject IFBs. The Hearings Officer finds that Gillig's bids specify a bus that meets the Frame Assembly Specification. Accordingly, the Hearings Officer AFFIRMS the County's denials of SSL's bid protests.

Pursuant to HRS § 103D-709(e), the Office of Administrative Hearings shall return the bonds to Petitioner, and the parties shall bear their own attorney's fees and costs.

DATED: Honolulu, Hawaii, June 23, 2025.



NATALIA T. CHAN
Administrative Hearings Officer
Department of Commerce
and Consumer Affairs