



U.S. Department
of Transportation

**Federal Highway
Administration**

*Unbalanced
Bids*

Rockne

Memorandum

Washington, D.C. 20590

Subject: Tennessee Special Provision (SP) Regarding
Unbalanced Bids

Date: JUL 10 1986

From: Director, Office of Highway Operations

Reply to
Attn of: HHO-32

To: Mr. Leon N. Larson
HRA-04 Regional Federal Highway Administrator
Atlanta, Georgia

HHO-30
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cc: Official File
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C.E. Fostien

The Tennessee Department of Transportation's proposed "Special Provision Regarding Unbalanced Bids, SP 102B," submitted by your memorandum of June 25, 1986, is not acceptable for use on Federal-aid projects. The SP does not provide an unencumbered competitive bidding process in keeping with the Federal Highway Administration's competitive bidding policy. The deferral of payment as provided in the SP, for unit prices judged to be unbalanced, after the opening of bids is improper. It puts the bidding contractor in the difficult position of developing a bid under conditions which may subsequently be unilaterally altered by the State. If a bid (balanced or unbalanced) is accepted for award, changes in unit prices or payment schedules either unilaterally by the State or through negotiations should not be attempted. Such actions tend to erode the competitive bidding process.

An acceptable competitive bidding process is one in which the contractor knows at the time of bidding how he/she will be paid and when and how much he/she will be paid, based on his/her bid. At the time of bid opening, all prices and payment schedules must be fixed.

An alternative approach the State may want to consider in reducing the contractor's use of unbalanced bidding for early completion items is to explore the liberalization of the State mobilization specification. The State should review its specification to ensure that it does meet the needs as intended; i.e., to meet the costs incurred by the contractor prior to beginning work on various items on the project site. Section 612 of the "Guide Specifications for Highway Construction" AASHTO, 1984, should be used as a standard.

Further, the State should consider including in its instructions to the bidders a statement that the State may reject any bid in which unit bid prices do not reflect realistic costs.

Original signed by:
David S. Gendell

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HHO-32:RHurst:jev:60355:07/03/86