

Incorporated (NMFTA) contends that brokers, as defined at 49 U.S.C. 13102(2), legally may not conduct carrier operations or perform transportation unless independently authorized to do so as a motor carrier or freight forwarder. Similarly, Monheim & Guilbert object that MTMC's Basic Agreement ("undertakes to carry and deliver. * * *") converts a broker into a carrier, imposes loss and damage liability, and imposes a public liability insurance requirement. MCD Transportation, Incorporated, objects to the requirement for cargo insurance. Green Valley Transportation, Incorporated objects that MTMC is attempting to redefine a broker as a carrier, in conflict with DOT regulations. Munitions Carriers Conference contends that cargo liability and insurance are requirements for carriers, not brokers.

Response 1. These objections reflect concerns about the Department of Transportation's (DOT) enforcement of the Interstate Commerce Act, as amended by the ICC Termination Act. The Interstate Commerce Act is a statute providing for the economic regulation of certain carriers and brokers by the DOT and the Surface Transportation Board. That statute established a registration requirement for regulated carriers and brokers. However, that regulatory statute is not a procurement statute, and it does not restrict MTMC's transportation procurement authority. The DOD has the right to make its own arrangements and to contract for transportation on its own terms. The DOD has the same right in this regard as any commercial shipper. In exercising its procurement authority, MTMC has determined that brokers should be eligible to compete for DOD traffic on the same terms as other carriers. For example, MTMC has the right to contract with brokers for standards of cargo liability, without regard to whether any cargo liability is imposed on brokers by the Interstate Commerce Act. Compliance with DOT's registration requirements remains, as always, a separate obligation of regulated carriers and brokers. We will not speculate whether brokers will violate statutes and regulations enforced by other agencies. Under the Basic Agreement, the broker agrees to comply with all applicable Federal, State, municipal, and other local laws and regulations.

Comment 2. The American Movers Conference contends that brokers might violate the Anti-Kickback Act by collecting commissions from motor

carriers for government business, and that the brokers and motor carriers might discuss each other's rates in violation of the Certification of Independent Pricing.

Response 2. We cannot assume that brokers and motor carriers are going to violate the law when they participate in procurements for DOD traffic. The potential for illegal kickbacks and price fixing always exists in every government procurement, without regard to the participation of brokers. The possibility of illegal activities by bidders is insufficient basis to exclude brokers from competition.

Comment 3. TRISM Specialized Carriers contends that MTMC's proposal runs the risk that carriers with an unsatisfactory DOT safety rating may be employed by brokers to transport DOD shipments, presenting the possibility of a claim of negligence on the part of MTMC in the event of an injury or accident.

Response 3. MTMC must defer to the DOT in the enforcement of DOT's safety ratings and regulations. As a general rule, shippers are not legally liable for the accidents of carriers hired to transport their goods. In any case, MTMC's Basic Agreement will require brokers to purchase a minimum of \$1 million public liability insurance.

Comment 4. NMFTA and American Road Line contend that the qualification requirements for brokers are less onerous than the requirements for motor carriers, thereby giving brokers an unwarranted competitive advantage. NMFTA contends this violates the mandate for full and open competition in the Armed Services Procurement Act.

Response 4. The purpose of the proposed Basic Agreement with brokers is to enable brokers to compete for DOD traffic. There is no reason to believe that continued exclusion of brokers from competition for DOD traffic will somehow contribute to full and open competition. The qualification requirements set forth in the Basic Agreement for brokers are identical to those contained in the Basic Agreement for freight forwarders and shipper agents. It would serve no useful purpose to impose on brokers our requirements governing vehicles and drivers of motor carriers, because brokers, unlike motor carriers, generally do not have vehicles and drivers.

George R. McDonald,

Chief, Qualification Division, ADCSOPS-Quality.

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DEPARTMENT OF DEFENSE

Department of the Army

Exclusive License Announcement

AGENCY: U.S. Army Research Laboratory.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.7(a)(1)(I), announcement is made of prospective exclusive license of U.S. Patent 5,609,290, "Fluxless Soldering Method", for the purpose of manufacturing, using, and selling the processes involved in this invention.

This invention is described as a Fluxless Soldering Method. One of the seven inventors of this invention has assigned his rights to the United States of America as represented by the Secretary of the Army, Washington, DC. The other six inventors have assigned their rights to the University of North Carolina at Charlotte which has exclusively licensed all of its interest to Integrated Electronics Innovations, Inc.

Under the authority of Section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Public Law 99-502) and Section 207 of Title 35, United States Code, the Department of the Army, as represented by the Army Research Laboratory, intends to grant a limited term exclusive or partially exclusive license of the above named patent to Integrated Electronics Innovations, Inc., a small business which is interested in manufacturing, using, and/or selling the processes involved in this invention.

FOR FURTHER INFORMATION CONTACT:

Ms. Norma Cammarata, Technology Transfer Manager, Army Research Laboratory, Attn: AMSRL-CP-TA, 2800 Powder Mill Road, Adelphi, MD 20783-1145, 301-394-2952 phone, 301-394-5818 fax, NORMAC@ARL.MIL, email.

SUPPLEMENTARY INFORMATION: Pursuant to 37 CFR 404.7(a)(1)(I), any interested party may file written objections to this prospective exclusive license arrangement. Written objections should be directed to the above address on or before 60 days from the publication of this notice.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

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