

BEFORE THE
MARYLAND STATE BOARD OF CONTRACT APPEALS

In the Appeal of Premium)
Transit Services, Inc.)
)
) Docket No. MSBCA 2530
Under MTA Bid # 04205-Z and)
09285-Z, Blanket Contract)
TT14583)

APPEARANCE FOR APPELLANT: Angela S. Robinson, Esq.
 Washington, D.C.

APPEARANCE FOR RESPONDENT: T. Byron Smith
 Assistant Attorney General
 Baltimore, MD

FINAL ORDER

On October 2, 2007, this Board issued an Opinion in the instant contract dispute by which judgment was entered in favor of appellant Premium Transit Services, Inc. (PTS) against respondent Maryland Transit Administration (MTA) subject to the opportunity of the parties to submit supplemental information in verification or contest of claimed contract damages in order to permit the Board to make a more determinative quantum calculation of appellant's actual proven liquidated losses. In response to that invitation, appellant filed its Statement of Verified Costs on October 24, 2007. Respondent elected not to submit any further filing. Upon review of the entire record of the proceedings in this matter, including all pleadings and related filings as well as the transcripts of the sworn testimony at the two-day hearing in this matter conducted May 2 and 3, 2007 and appellant's supplemental Statement of

Verified Costs, the Board determines to award and hereby awards to appellant liquidated damages in the total sum of \$13,177.82, exclusive of interest, as more fully identified in the itemization below:

1. \$5,718.00 representing the additional out-of-pocket expenses incurred by appellant on or about November 15 and 16, 2005 for purchasing new cast iron brake shoes as demanded by respondent even though respondent failed to perform its contractual obligation to provide to appellant used brake cores for purpose of appellant's remanufacture and return;

2. \$1,292.43 in out-of-pocket lodging costs incurred by appellant on or about October 23-26, November 1-3 and 28, 2005 and March 22-24, 2006, plus out-of-pocket meal expenses of \$503.61 during the aforesaid out-of-town travel, and additional travel costs of \$663.78 in fuel and highway toll charges, for a subtotal of \$2,459.82 in reimbursement for travel related expenses during appellant's efforts to comply with respondent's contract performance demands;

3. \$5,000.00 in personnel expenses, calculated on the basis of fifty (50) hours of reasonably incurred time at an hourly rate of one hundred dollars (\$100.00); and

4. \$2,086.49 in pre-judgment interest awarded pursuant to the authority set forth in §15-222(c) of the State Finance and Procurement Article and §11-107(a) of the Courts and Judicial Proceedings Article of the Maryland Annotated Code calculated at the statutory rate of ten per cent (10%) per annum for nineteen (19) months from March 25, 2006 to the present and continuing until paid.

The balance of appellant's claim is hereby denied as insufficiently established by the evidence introduced in these proceedings.

Wherefore, it is Ordered this day of November, 2007 that judgment in favor of appellant shall be and hereby is entered in the total sum of \$15,264.31.

Dated:

Dana Lee Dembrow
Board Member

I Concur:

Michael W. Burns
Chairman

Michael J. Collins
Board Member

Certification

COMAR 21.10.01.02 **Judicial Review.**

A decision of the Appeals Board is subject to judicial review in accordance with the provisions of the Administrative Procedure Act governing cases.

Annotated Code of MD Rule 7-203 **Time for Filing Action.**

(a) Generally. - Except as otherwise provided in this Rule or by statute, a petition for judicial review shall be filed within 30 days after the latest of:

- (1) the date of the order or action of which review is sought;
- (2) the date the administrative agency sent notice of the order or action to the petitioner, if notice was required by law to be sent to the petitioner; or
- (3) the date the petitioner received notice of the agency's order or action, if notice was required by law to be received by the petitioner.

(b) Petition by Other Party. - If one party files a timely petition, any other person may file a petition within 10 days after the date the agency mailed notice of the filing of the first petition, or within the period set forth in section (a), whichever is later.

* * *

I certify that the foregoing is a true copy of the Maryland State Board of Contract Appeals Final Order in MSBCA 2530, appeal of Premium Transit Services, Inc. under MTA Bid # 04205-Z and 09285-Z, Blanket Contract TT14583.

Dated:

Michael L. Carnahan
Deputy Clerk