

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER, MS 43

1727 30th STREET

P. O. BOX 168041

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6299

FAX (916) 227-6282

www.dot.ca.gov/hq/esc/oe

*Flex your power!
Be energy efficient!*

March 26, 2014

Facsimile: (541) 469-0137

Dave Baldwin, Secretary/Treasurer
Tidewater Contractors, Inc.
903 Highland Avenue
National City, CA 91950

01-0B8404
01-DN-199-T0.0/4.2
B.O. 03/12/2014

Dear Mr. Baldwin:

The Department of Transportation (Caltrans) received the attached bid protest dated March 25, 2014, from Windsor Fuel Co. (Windsor) protesting the Disabled Veterans Business Enterprise (DVBE) Commitment form submitted by Tidewater Contractors, Inc. (Tidewater). Windsor alleges that Tidewater listed Charlie Mike Safety Supply, LLC. to purchase 2 solar Message Centers for \$15,750.00 each, for a total of \$31,500.00 and on its DVBE Commitment form claimed \$18,900, after a 40 percent deduction. Windsor further alleges that the total claimed participation exceeds the bid item cost amount of \$9,000.00 and creates the appearance of a Commercially Useful Function issue.

Please provide your response to Windsor's protest no later than April 2, 2014.

If you have any questions, please contact Mulissa Smith, Contract Awards Branch Chief, at (916) 227-6228.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. McMILLAN".

JOHN C. McMILLAN
Deputy Division Chief
Office Engineer
Division of Engineering Services

Attachment



General Engineering Contractors – Paving, Chip Seal, Oil Spreading

9600 Windsor Avenue • Windsor, CA 95492 • TELEPHONE (707) 836-9751 FAX (707) 838-3361
STATE CONTRACTORS LICENSE #984141

March 25, 2014

MSC 43

Office Engineer Contracts Award Branch Chief
California Department of Transportation
1727 30th Street
Sacramento, Ca 95816-7005

Attn: Earle Seaberg, Deputy Division Chief

Re: 01-DN-199-T0.0/4.2 Cold Plane & Surface HMA Surfacing (Bonded Wear Course)
Caltrans Contract No. 01-0B8404
WFC Bid No. P14021

Subject: Formal Bid Protest

We would like to take this opportunity to draw your attention to the Bid submitted by Tidewater Contractors, Inc. Windsor Fuel Company formally requests to protest Bid results for the Bid submitted to the State of California Department of Transportation on March 12, 2014 for the "01-DN-199-T0.0/4.2 Cold Plane & Surface HMA Surfacing (Bonded Wear Course), Contract No. 01-0B8404" on the grounds that the apparent Low Bidder, Tidewater Contractors, Inc. is Non-Responsive due to:

A review of the "Certified DVBE Summary submitted by the apparent low bidder (Tidewater Constructors, Inc.)" They listed Charlie Mike Safety Supply, LLC (a Certified DVBE/SB Company) to purchase (2) Solar Message Centers at \$15,750.00 EA. Which equals \$31,500.00, then deducted 40% to bring the claimed amount to \$18,900.00. On the Bid submitted the Unit Price for Item 5 is \$3,000.00 x 3 for a total amount of \$9,000.00. The extended bid item total amount and the DVBE Claimed amount if were a Commercially Useful Function would be the same amount. On the surface the apparent low bidder seems to meet the requirements since Charlie Mike Safety Supply, LLC is a Certified DVBE and provided the appearance of proper participation for the mandatory goal of 5%.

Based upon the "Commercially Useful Function Guide published by the Office of Business and Economic Opportunity dated July 21, 2011 here are our observations:



General Engineering Contractors – Paving, Chip Seal, Oil Spreading

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STATE CONTRACTORS LICENSE #984141

1. Charlie Mike Safety Supply, LLC is selling Solar Message Centers to Tidewater Construction. This is not a normal function for it's business, services and or function and therefore acting only as an extra participant by providing only the appearance of participation to meet DVBE goals. In fact the listed address 1732 Blue Jay Court Fortuna, Ca. is a residential home.
2. Charlie Mike Safety Supply, LLC is neither a Manufacturer, Regular Dealer or distributor for the stated Solar Boards.
3. The NAICS Codes that listed for Charlie Mike Safety Supply, LLC are for 312015 Tape, 321518 Safety Control Devices, 391118 Lighting Accessories, 461515 Crowd Control Equipment, 461615 Traffic Control, 461815 Safety Apparel and 461817 Face and Head Protection.
4. The proper NAICS Code for Portable Changeable Message Boards are 532411- Construction, Transportation, Mining and Forestry Machinery and Equipment Rental or 423850 - Service Establishment Equipment and Supplies Merchant Wholesalers
5. DBE firms must be certified with appropriate NAICS and Work Codes prior to bid opening to qualify as a responsible/responsive bid. As indicated above, CUF is not reviewed during the certification process. Prime contractors must conduct their own due diligence to verify if a firm listed on the DVBE database performs a CUF before they commit to use the firm. This prevents DVBE firms from being disallowed post-bid commitment.

Based upon the above observations / reasons and for the sole purpose to level the playing field. This practice would be in direct conflict to the Departments desire to comply with current rules, codes and regulations. We respectfully request that the State deem Tidewater Construction, Inc. as Non-Responsive and award the Contract to the Second apparent low bidder, Windsor Fuel Company. As you are aware this is a time sensitive issue, and your prompt response is greatly appreciated.

If I can be of further assistance, do not hesitate to contact me.

Sincerely,



MARC ARMSTRONG
Estimator/Project Manager

Cc: Mike Fain, Karl Meyers, Job Folder

1150 Willow Pass Road
Pittsburg, CA 94565
Phone: (925) 427-5266 Fax: (925) 427-1216
Contractor's License #984141-A

Windsor Fuel Company

WFC

To: Caltrans

From: Marc Armstrong

Attention: Office Engineer

Fax: 916-227-6282

Pages: 3

Phone: 916-324-6985

Date: 3/28/2014

Re: Contract No. 01-0B8404 Tidewater
Construction Protest

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

• **Comments:**

Please see attached our Formal Protest to Contract No. 01-0B8404, 01-DN-199-T0.0/4.2 as required. Please let me know if you need any further information. Please confirm receipt. Hard copy will be sent via Certified mail.

Thanks,

Marc

**** Transmit Conf. Report ****

P. 1
CALTRANS CONTR AWARDS Fax 916-227-6282

Mar 26 2014 04:44pm

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
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STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

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