

**DEPARTMENT OF TRANSPORTATION**

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER

1727 30<sup>th</sup> Street, MS-43

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!*

September 19, 2013

Facsimile: (405) 478-2880

Robert Everitt  
Interstate Road Management, Corp.  
322 Rocky Road  
Hazelton, PA 18201

01-0C5104  
01-Hum-DN-101,199-Var  
B.O. 08/27/2013

Dear Mr. Everitt:

The Department of Transportation (Caltrans) received the attached letter on September 11, 2013, from Interstate Road Management, Corp. (IRMC) in response to a nonresponsive bid finding for Contract No. 01-0C5104. IRMC alleges that Caltrans personnel provided inaccurate information regarding its Disadvantaged Business Enterprise (DBE) submittal, which ultimately led to a nonresponsive bid finding. IRMC is requesting that Caltrans find its bid responsive.

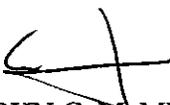
Section 2-1.12B(2) of the 2010 Standard Specifications states in part... *"if the DBE commitment form is not submitted with the bid, the apparent low bidder, the 2nd low bidder, and the 3rd low bidder must complete and submit the form to the Office Engineer. The DBE commitment form must be received by the Office Engineer no later than 4:00 p.m., on the 4<sup>th</sup> business day after bid opening. If you do not submit the DBE commitment form by the specified time, your bid is nonresponsive."* Furthermore, the DBE Commitment form states, "...Copies of the DBE quotes are required." IRMC failed to provide written confirmation for the DBE listed on the DBE Commitment form by the 4th business day after bid opening.

Caltrans utilizes its Standard Specifications as a basis/foundation, upon which each project is built and makes these Standard Specifications available to each bidder. It is the sole responsibility of that bidder to adhere/comply with those Standards. As evidenced, failure to comply with the standards, results in a nonresponsive bid. Attached for IRMC's reference are the specific sections, which detail the requirements and instructions for submitting the DBE commitment forms and confirmations.

Based on the above, Caltrans upholds its original finding dated September 4, 2013, finding your bid nonresponsive and will proceed to award this contract to the lowest responsible bidder.

If you have any questions, please contact Nicole Butler, Contract Awards Analyst, at (916) 227-6292.

Sincerely,

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

Attachment

## SECTION 2

## BIDDING

### 2-1.12B(2) UDBE Commitment Submittal

Submit UDBE information on the *Caltrans Bidder - UDBE - Commitment* form (UDBE commitment form) included in the *Bid* book. If the form is not submitted with the bid, remove the form from the *Bid* book before submitting your bid.

If the UDBE commitment form is not submitted with the bid, the apparent low bidder, the 2nd low bidder, and the 3rd low bidder must complete and submit the form to the Office Engineer. The UDBE commitment form must be received by the Office Engineer no later than 4:00 p.m. on the 4th business day after bid opening.

Other bidders are not required to submit the UDBE commitment form unless the Department requests it. If the Department requests a UDBE commitment form from you, submit the completed form within 4 business days of the request.

Submit written confirmation from each UDBE shown on the form stating that it will be participating in the Contract. Include confirmation with the UDBE commitment form. A copy of a UDBE's quote will serve as written confirmation that the UDBE will be participating in the Contract.

If you do not submit the UDBE commitment form by the specified time, your bid is nonresponsive.

### 2-1.12B(3) Good Faith Efforts Submittal

If you have not met the UDBE goal, complete and submit the *Good Faith Efforts Documentation* form with the bid showing that you made adequate good faith efforts to meet the goal. Only good faith efforts directed toward obtaining participation by UDBEs are considered. If good faith efforts documentation is not submitted with the bid, it must be received by the Office Engineer no later than 4:00 p.m. on the 4th business day after bid opening.

If your UDBE commitment form shows that you have met the UDBE goal or if you are required to submit the UDBE commitment form, you must submit good faith efforts documentation within the specified time to protect your eligibility for award of the contract in the event the Department finds that the UDBE goal has not been met. Good faith efforts documentation must include the following information and supporting documents, as necessary:

1. Items of work you have made available to UDBE firms. Identify those items of work you might otherwise perform with your own forces and those items that have been broken down into economically feasible units to facilitate UDBE participation. For each item listed, show the dollar value and percentage of the total bid. You are responsible to demonstrate that sufficient work to meet the goal was made available to UDBE firms.
2. Names of certified UDBEs and dates on which they were solicited to bid on the project. Include the items of work offered. Describe the methods used for following up initial solicitations to determine with certainty whether the UDBEs were interested and include the dates of the follow-up. Attach supporting documents such as copies of letters, memos, facsimiles sent, telephone logs, telephone billing statements, and other evidence of solicitation. You are reminded to solicit certified UDBEs through all reasonable and available means and provide enough time to allow UDBEs to respond.
3. Name of selected firm and its status as a UDBE for each item of work made available. Include name, address, and telephone number of each UDBE that provided a quote and its price quote. If the firm selected for the item is not a UDBE, provide the reasons for the selection.
4. Name and date of each publication in which you requested UDBE participation for the project. Attach copies of the published advertisements.
5. Names of agencies and dates on which they were contacted to provide assistance in contacting, recruiting, and using UDBE firms. If the agencies were contacted in writing, provide copies of supporting documents.
6. List of efforts made to provide interested UDBEs with adequate information about the plans, specifications, and requirements of the contract to assist them in responding to a solicitation. If you have provided information, identify the name of the UDBE assisted, the nature of the information provided, and date of contact. Provide copies of supporting documents, as appropriate.
7. List of efforts made to assist interested UDBEs in obtaining bonding, lines of credit, insurance, necessary equipment, supplies, and materials excluding supplies and equipment that the UDBE subcontractor purchases or leases from the prime contractor or its affiliate. If such assistance is provided by you, identify the name of the UDBE assisted, nature of the assistance offered, and date assistance was offered. Provide copies of supporting documents, as appropriate.

## SECTION 2

## BIDDING

8. Any additional data to support demonstration of good faith efforts.

The Department may consider UDBE commitments of the 2nd and 3rd bidders in determining whether the low bidder made good faith efforts to meet the UDBE goal.

### 2-1.13–2-1.14 RESERVED

### 2-1.15 DISABLED VETERAN BUSINESS ENTERPRISES

#### 2-1.15A General

Section 2-1.15 applies to a non-federal-aid contract.

Take necessary and reasonable steps to ensure that DVBEs have opportunity to participate in the Contract.

Comply with Mil & Vet Code § 999 et seq.

#### 2-1.15B Projects \$5 Million or Less

Section 2-1.15B applies to a project with an estimated cost of \$5 million or less.

Make work available to DVBEs and select work parts consistent with available DVBE subcontractors and suppliers.

Meet the goal shown on the *Notice to Bidders*.

Complete and submit the *Certified DVBE Summary* form. List all DVBE participation on this form. For an informal-bid contract, submit the form with your bid. For a non-informal-bid contract, you may submit the form with your bid; if you do not, submit it such that it is received at the Office Engineer no later than 4:00 p.m. on the 4th business day after bid opening. If a DVBE joint venture is used, submit the joint venture agreement with the *Certified DVBE Summary* form.

List each 1st-tier DVBE subcontractor in the *Subcontractor List* form regardless of percentage of the total bid.

#### 2-1.15C Projects More Than \$5 Million

##### 2-1.15C(1) General

Section 2-1.15C applies to a project with an estimated cost of more than \$5 million

The Department encourages bidders to obtain DVBE participation to ensure the Department achieves its State-mandated overall DVBE goal.

If you obtain DVBE participation:

1. Complete and submit the *Certified DVBE Summary* form. List all DVBE participation on this form.
2. List each 1st tier DVBE subcontractor in the *Subcontractor List* form regardless of percentage of the total bid.

##### 2-1.15C(2) DVBE Incentive

The Department grants a DVBE incentive to each bidder who achieves a DVBE participation of 1 percent or greater (Mil & Vet Code 999.5 and Code of Regs § 1896.98 et seq.).

To receive this incentive, submit the *Certified DVBE Summary* form. For an informal-bid contract, submit the form with your bid. For a non-informal-bid contract, you may submit the form with your bid; if you do not and you are the low bidder or the 2nd or 3rd low bidder, submit it such that it is received at the Office Engineer no later than 4:00 p.m. on the 4th business day after bid opening. If a DVBE joint venture is used, submit the joint venture agreement with the *Certified DVBE Summary* form. Other bidders may be required to submit this form if bid ranking changes.

##### 2-1.15C(3) Incentive Evaluation

The Department applies the small business and non-small business preference during bid verification and proceeds with the evaluation specified below for DVBE incentive.



**INTERSTATE ROAD MANAGEMENT CORP. (a Dbi Company)**

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Interstate Road Management  
10508 North Coltrane Rd.  
Oklahoma City, OK 73131

RE: 01-0C3604, Non-Responsive Letter 09/04/13  
California Department of Transportation  
Attn: John C. McMillan  
1727 30<sup>th</sup> Street  
Sacramento, CA 95816

Dear Mr. McMillan,

I would like to protest the non-responsive letter sent on 09-04-13. The day after submitting the above referenced bid, I contacted Caltrans and asked to speak with someone about questions I had related to the proposal. I was then contacted by Jeff Olsen. I explained to Mr. Olsen that I was still uncertain as to whether or not I had completed the proposal properly. I explained to him how I had prepared and submitted the proposal and asked if there was anything else that needed to be provided. I also explained what information I provided for the DBE Forms, and specifically asked if I needed to submit copies of the quotes, and I was told that it was not necessary as long as I filled out the DBE's name, address, DBE# and dollar/Percent values on the DBE Form. I also asked if there was any way to verify that the proposal was properly completed, so that I would have a chance to correct any issues prior to deadlines expiring. I was told that "from what he and I had reviewed there shouldn't be any problems", so I was very surprised to receive a non-responsive letter on 09/04/13. I feel that I took every step that I could to insure that we submitted a responsive bid and I don't feel that a non-responsive decision is justified, so I am requesting that the decision be reversed.

Thanks for your help in resolving this matter,

A handwritten signature in black ink, appearing to read "Robert Everitt", is written over a horizontal line.

Robert Everitt  
Interstate Road Management Corp.  
[robert.everitt@dbiservices.com](mailto:robert.everitt@dbiservices.com)  
817-808-1466

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

P.1

CALTRANS CONTR AWARDS Fax 916-227-6282

Sep 19 2013 01:31pm

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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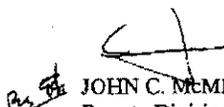
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