

**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!*

December 2, 2013

Facsimile: (707) 763-8711

Kevin Ghilotti, Vice President  
Team Ghilotti, Inc.  
2531 Petaluma Blvd., S  
Petaluma, CA 94952

01-378164  
01-Men-128-VAR  
B.O. 09/24/2013

Dear Mr. Ghilotti:

The Department of Transportation (Caltrans) received the attached letter dated October 29, 2013 from Team Ghilotti, Inc. (Ghilotti), protesting the bids submitted by Argonaut Constructors (Argonaut) and Mendocino Construction Services, Inc. (MCS). The protest alleges that Argonaut failed to list a Disadvantaged Business Enterprise (DBE) subcontractor on its Subcontractor List form and that MCS's DBE Commitment form is inconsistent with its Subcontractor List form. Ghilotti requests that Caltrans find the bids submitted by Ghilotti and MCS nonresponsive.

Caltrans conducted a review of the bid documents submitted by Argonaut and determined that Argonaut was not required to list Bid Items 1, 7, 17, and 23 on its Subcontractor List form, since the items were less than ½ of 1 percent of the total bid. In addition, on the Subcontractor List form submitted with the bid, Argonaut identified Mountain Enterprises (ME) as performing work described as tree removal and on the 24-hour Subcontractor List form submitted on the same day, ME was identified to perform Bid Item 38, Clearing and Grubbing (LS), tree removal, 20 percent. Using the term tree removal identifies that specific portion of clearing and grubbing to be performed by ME and does not change the scope of work. Therefore, Caltrans does not consider this an improper change.

With respect to the protest as it pertains to MCS, Caltrans reviewed the bid documents and the DBE Commitment form submitted by MCS and determined that Force Traffic Control is listed to provide Bid Item 4, Portable Changeable Message Sign (LS) as equipment rental, therefore, MCS was not required to list this item on its Subcontractor List form.

Based on the above, Caltrans finds Ghilotti's protests lacks merit and will proceed to award the contract to the lowest responsible bidder, provided that all requirements are met.

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

Sincerely,

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

Attachment



October 29, 2013

To: Earl Seaberg  
Contract Awards Branch Chief  
Department of Transportation  
Division of Engineering Services  
Office Engineer MS 43  
1727 30th Street  
Sacramento, CA 95816

Re: Bid Protest  
01-378164 Hwy 128  
Bid Date: September 24, 2013

Dear Mr. Seaberg,

On Tuesday, September 24, 2013, Ghilotti Construction Company bid the above referenced project. During a review of Argonaut's (Argonaut) and Mendocino Construction Services' (MCS) submitted bid documents subsequent to the bid opening, it was determined that both Argonaut and MCS failed to properly submit the "Subcontractor List" form. Accordingly, Ghilotti Construction Company hereby formally protests an award of this contract to either Argonaut or MCS. Their bids should be deemed nonresponsive.

The Dept. of Transportation should reject Argonaut's bid as nonresponsive because it submitted an inconsistent Subcontractor List form and DBE Commitment form.

Argonaut listed Appian on its DBE Commitment form to perform bid items 1, 7, 17 and 23. However, Argonaut failed to list Appian on its Subcontractor List form. As a result of this inconsistency, the Department should reject Argonaut's bid as nonresponsive.

Additionally, Argonaut improperly revised its subcontractor list form. On the day of the bid Argonaut listed Mountain Enterprises to perform Tree Removal. In its 24 hour submittal of its subcontractor list, Argonaut improperly added Clear and Grub to Mountain Enterprises description of subcontracted work. As a result of this improper subcontractor work revision, the Department should reject Argonaut's bid as nonresponsive.

— Engineering Contractor —

The Dept. of Transportation should reject MCS's bid as nonresponsive because it submitted an inconsistent Subcontractor List form and DBE Commitment form.

On its Subcontractor List form MCS identified Force Traffic Control as only performing Bid Item 3, Traffic Control System. However, on the DBE Commitment form, MCS identified Force Traffic Control as performing Bid Item 3, and Bid Item 4, Portable Message Board. This addition of Bid Item 4 changes the description of work to be performed by the subcontractor and constitutes a change that is not consistent with the Subcontractor List. As a result of this inconsistency, the Department should reject MCS's bid as nonresponsive.

Based on this information, Ghilotti Construction Company hereby protests an award of this contract to either Argonaut or MCS.

Thank you for considering this matter.



Thomas Smith  
Estimating Manager  
Ghilotti Construction Company, Inc

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

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

Dec 2 2013 03:24pm

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
917077638711	Normal	02:03:24pm	0'31"	3	# 0 K	

STATE OF CALIFORNIA—CALIFORNIA TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

**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!*

December 2, 2013

Facsimile: (707) 763-8711

Kevin Ghilotti, Vice President  
Team Ghilotti, Inc.  
2531 Petaluma Blvd., S  
Petaluma, CA 94952

01-378164  
01-Men-128-VAR  
B.O. 09/24/2013

Dear Mr. Ghilotti:

The Department of Transportation (Caltrans) received the attached letter dated October 29, 2013 from Team Ghilotti, Inc. (Ghilotti), protesting the bids submitted by Argonaut Constructors (Argonaut) and Mendocino Construction Services, Inc. (MCS). The protest alleges that Argonaut failed to list a Disadvantaged Business Enterprise (DBE) subcontractor on its Subcontractor List form and that MCS's DBE Commitment form is inconsistent with its Subcontractor List form. Ghilotti requests that Caltrans find the bids submitted by Ghilotti and MCS nonresponsive.

Caltrans conducted a review of the bid documents submitted by Argonaut and determined that Argonaut was not required to list Bid Items 1, 7, 17, and 23 on its Subcontractor List form, since the items were less than 1/2 of 1 percent of the total bid. In addition, on the Subcontractor List form submitted with the bid, Argonaut identified Mountain Enterprises (ME) as performing work described as tree removal and on the 24-hour Subcontractor List form submitted on the same day, ME was identified to perform Bid Item 38, Clearing and Grubbing (LS), tree removal, 20 percent. Using the term tree removal identifies that specific portion of clearing and grubbing to be performed by ME and does not change the scope of work. Therefore, Caltrans does not consider this an improper change.

With respect to the protest as it pertains to MCS, Caltrans reviewed the bid documents and the DBE Commitment form submitted by MCS and determined that Force Traffic Control is listed to provide Bid Item 4, Portable Changeable Message Sign (LS) as equipment rental, therefore, MCS was not required to list this item on its Subcontractor List form.

Based on the above, Caltrans finds Ghilotti's protests lacks merit and will proceed to award the contract to the lowest responsible bidder, provided that all requirements are met.

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

Sincerely,

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

Attachment