

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER, MS 43
1727 30th STREET
P. O. BOX 168041
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6280
FAX (916) 227-6282
TTY 711



*Flex your power!
Be energy efficient!*

April 3, 2013

Facsimile: (763) 428-2245

C. George Bush, President
Penhall Company
P.O. Box 310
Rogers, MN 55374

02-3E6504
02-Sha, Sis-5-Var
B.O. 2/12/13

Dear Mr. Bush:

The Department of Transportation (Caltrans) received the attached letter dated March 11, 2013, from Penhall Company (Penhall) protesting a nonresponsive finding based on its failure to submit written confirmation from each DBE as required. Penhall states that it furnished all required documents at time of bid and followed up by sending the DBE participation materials via fax correspondence on March 4, 2013.

As you are aware, the Contract Special Provision Section 2-1.12B (2) **DISAVANTAGED BUSINESS ENTERPRISES**, states in part:

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

Caltrans confirms that the DBE Commitment form was included with the bid. However, there was no confirmation of the DBE’s participation or quotes received within the 4 business days following the bid opening date of February 12, 2013.

Based on the above confirmation, Caltrans upholds its decision dated March 8, 2013, and will award this contract to the lowest responsible bidder.

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



March 11, 2013

State of California
Department of Transportation
John C. McMillan
1727 30th Street
Sacramento, CA 65816

Re: 02-03E6504, 02-Sha, Sis-5-Var

Dear Mr. McMillan,

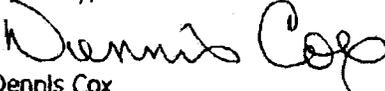
We would like to protest your findings of nonresponsive bidder based on the information attached. Penhall Corp. did comply with the Contract Special Provision Section 2-1-1.12B(2). Penhall Company submitted, in accordance with Section 2-1.12B(2), at bid opening, the DBE commitment form DES-OE-0102.10C with the bid book. As specified in this section, if the form is NOT included in the Bid Book, remove the form and send the UDBE commitment within 4 business days. The UDBE commitment form was turned in with the bid proposal.

In addition, submittal of written confirmation is required, (no time sensitive dates are stated for the participation confirmation forms (copy of quote), showing participation of UDBE). For that matter, No specific dates/time are stated for the UDBE confirmation form at all, in this section.

Penhall Company furnished all required documents with the bid proposal, and followed up, sending the participation materials via fax correspondence on March 4, 2013. This information supplied by the quote from S.T Rhoades Construction. Fulfilled the required submittal forms and participation commitments of Section 2-1.12B(2) in its entirety. (Attached please find the fax confirmation page, form DES-OE-0102.10C of the bid book, and the quote from S.T Rhoades Construction.)

We feel the department has deviated from the wording in Section 2-1.12B(2). Penhall Company should and requests award of contract 02-03E6504.
Should you have any other questions please feel free to contact me at 714-578-3253.

Sincerely,


Dennis Cox
Vice President

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02-3E6504
02-Sha, Sis-5-Var
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Dear Mr. Bush:

The Department of Transportation (Caltrans) received a bid submitted by Penhall Company, (Penhall) for Contract No. 02-3E6504 on February 12, 2013. By this letter, Caltrans notifies Penhall that its bid is nonresponsive since Penhall did not comply with Contract Special Provision Section 2-1.12B (2) DISADVANTAGED BUSINESS ENTERPRISES, which states in part:

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

Penhall failed to submit the written confirmation from each DBE as required.

Based on the above, Caltrans will proceed to award the contract to the lowest responsible bidder provided all requirements are met.

Your attention is directed to Section 3-1.04 of the 2010 Standard Specifications. Caltrans is not obligated to offer an extension of the award period for a nonresponsive bid. Should you wish to extend your bid while resolving a nonresponsive finding, you must send your request to the Office Engineer no later than 4:00 pm, two business days prior to the expiration of your bid.

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

Sincerely,


JOHN C. McMILLAN

for Deputy Division Chief
Office Engineer
Division of Engineering Services

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

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

Mar 8 2013 04:16pm

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
917634282245	Normal	08:04:16pm	0'18"	1	# 0 K	

STATE OF CALIFORNIA—BUSINESS TRANSPORTATION AND HOUSING AGENCY

EDUARDO G. BROWN Jr., Governor

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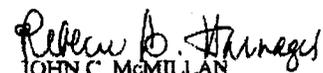
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Sincerely,


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

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

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

Apr 3 2013 11:32am

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
917634282245	Normal	03:11:31am	1'04"	4	# 0 K	

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