

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 15, 2013,

Facsimile: (530) 894-6220

Richard A. Lanier, Estimating Manager
Baldwin Contracting Company dba
Knife River Construction
1764 Skyway
Chico, CA 95928

03-1F6204
03-Nev-49-31.3/R32.6
B.O. 1/29/2013

Dear Mr. Lanier:

The Department of Transportation (Caltrans) received the attached letters Knife River Construction (KRC) dated March 21, 2013 and March 25, 2013, in response to The Office of Business and Economic Opportunity, Contract Evaluation Unit (CEU) review of KRC's Disadvantaged Veteran Business Enterprise (DVBE) Summary form, in which it listed Dependable Petroleum Products to supply PG 64-16 paving asphalt.

As you are aware, CEU determined that DPP is an extra participant in the transaction of purchasing asphalt and reduced the amount that KRC could claim towards DPP's participation from \$34,292.50 to \$3,429. After the reduction, KRC did not meet the 5 percent goal on this contract, and was no longer eligible for award of the contract.

Caltrans did not conduct a further review of this protest, since CEU has already determined that DPP would not be performing a Commercially Useful Function (CUF) with respect to this contract. As such, Caltrans has not changed its position concerning the original findings of CEU's review and will proceed to award this contact to lowest responsible bidder.

If you have any questions regarding CEU's determination, please contact John Myers, Contract Evaluation Analyst, at john_myers@dot.ca.gov or (916) 324-0988.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. McMILLAN", with a large, stylized flourish extending to the left.

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

Attachments



www.kniferiver.com

Northern California Division - Chico
1784 Skyway
Chico, CA 95926-8633
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March 21, 2013

VIA FACSIMILE (916) 227-6282

Melissa Smith
Office of the Engineer, MS 43
California Department of Transportation
1727 30th Street
Sacramento, CA 95816
(916) 227-6280
(916) 227-6282 fax

RE: Contract No. 03-1F6204 Hwy 49 near North San Juan
Bids Opened: January 29, 2013
Bid Protest

Dear Ms. Smith:

Please consider this to be a formal bid protest of any award by the Department to any contractor other than Knife River Construction (KRC) for the project noted above.

Although KRC has not received any formal notice that its bid is non-responsive, it has come to our attention that another bidder is being considered for award on this project even though KRC is the low bidder by comparison.

After a telephone conversation with a representative from the Office of the Engineer, KRC was informed that its bid is non-responsive because the DVBE goal of 5% was not attained. KRC was informed by the Department that our listed DVBE (Dependable Petroleum Products) is not performing a "commercially useful function" and therefore cannot be counted towards DVBE goal attainment.

Dependable Petroleum Products (DPP) was a certified DVBE at the time of bid and to the best knowledge of KRC, DPP met all the criteria required in Section 999 of the Military and Veterans Code to perform a "commercially useful function" in the supply and transportation of liquid asphalt for this project at the time of bid. It should be noted that while DPP was under CUF review at the time of bid, no determination was made by the Department until after the bid. DPP was a valid, certified DVBE at the time of bid, and that is the requirement for DVBE goal attainment.



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KRC hereby requests that the Department of Transportation notifies it in writing that its bid is non-responsive, and also requests that the Department explains in writing why Dependable Petroleum Products is not performing a commercially useful function as outlined in Section 999 of the Military and Veterans Code.

If you have any questions, please do not hesitate to call Andy Lanier at (530) 891-6555.

Sincerely,

Knife River Construction
Richard A. Lanier
Estimating manager



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March 25, 2013

VIA FACSIMILE (916) 227-6282

John C. McMillan
Office of the Engineer, MS 43
California Department of Transportation
1727 30th Street
Sacramento, CA 95816
(916) 227-6280
(916) 227-6282 fax

RE: Contract No. 03-1F6204 Hwy 49 near North San Juan
Bids Opened: January 29, 2013
Bid Protest

Dear Mr. McMillan:

Knife River Construction (KRC) has received your letter dated March 22, 2013. In your letter you state that the Office of Business and Economic Opportunity, Contract Evaluation Unit has determined that Dependable Petroleum Products (DPP) is an extra participant in the transaction of purchasing asphalt and therefore that portion cannot be used towards the DVBE goal amount submitted by KRC. KRC disagrees with this finding.

For this project, KRC is the manufacturer of the asphalt concrete (HMA). We have two choices for getting the required liquid asphalt delivered to its HMA mixing plant.

The first choice is to purchase liquid asphalt from an asphalt supplier such as Paramount or Valero and then contract with a tanker trucking company to have it delivered to the KRC mixing plant. In this case, KRC must work with two separate agreements, both with limited liabilities for the product being delivered.

Our second choice is to pay a little more to contract with a company like DPP who will purchase and deliver the liquid asphalt to the KRC mixing plant. In this case, KRC only has to work with one agreement and DPP has full responsibility for the product delivered.

This scenario is very similar to a homeowner building or remodeling a house. The homeowner can choose to subcontract out all the trades individually and take responsibility for the management of the subcontractors, or the homeowner can hire a general contractor (usually at more expense) who will manage and take responsibility for all the subcontractors.



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KRC does not have to use DPP for this project just like the homeowner does not have to use a general contractor to build a house, but sometimes it makes business sense to do so. DPP is not an "extra participant" in this transaction. DPP is performing a valid and valued service that KRC is willing to pay for.

Dependable Petroleum Products (DPP) was a certified DVBE at the time of bid and to the best knowledge of KRC, DPP meets all the criteria required in Section 999 of the Military and Veterans Code to perform a "commercially useful function" in the supply and transportation of liquid asphalt for this project at the time of bid.

KRC hereby requests that the Department of Transportation reverse its decision regarding the award of this project or that at the very least that it grants KRC a hearing on this matter prior to any award.

If you have any questions, please do not hesitate to call Andy Lanier at (530) 891-6555.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Lanier", written over a horizontal line.

Knife River Construction
Richard A. Lanier
Estimating manager

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

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

Apr 15 2013 04:18pm

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STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION
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Richard A. Lanier, Estimating Manager
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1764 Skyway
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03-1F6204
03-Nev-49-31.3/R32.6
B.O. 1/29/2013

Dear Mr. Lanier:

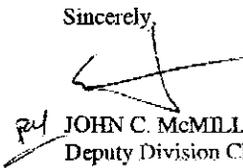
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Sincerely,


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

Attachments