

November 6, 2014

John McMillan, Deputy Division Chief
State of California, Department of Transportation
Division of Engineering Services
Office Engineer, MS 43
1727 30th Street
Sacramento, CA 95816

Subject: Bid Protest, Contract 04-041004

Re: ***Myers and Son's / ACC, a joint venture's (MS/ACC) bid protest response dated November 5, 2014 to our bid protest dated October 30, 2014***

- 1) Whether or not the Roadway Engineering Works (REW) quote was the quote used in the bid by MS/ACC; MS/ACC clearly underbid the "B" portion of the bid as they did not receive a quote from REW that bid the project at 100 working days. This fact alone suggests that MS/ACC should be found non-responsive on its face as MS/ACC either purposely unbalanced their bid to obtain a competitive advantage, or they plan to bid-shop REW after the fact - an action prohibited by the Public Contractors code.
- 2) Again, MS/ACC insists that they made no mistake in bidding 100 working days to complete the project - this further proves the point of MS/ACC's intent to bid-shop the days REW bid after the fact, as MS/ACC did not receive a quote from REW at 100 working days to complete the work.
- 3) In prior determinations, the fact that Ghilotti Bros. admits a mistake does not make MS/ACC's assertion that they intended to bid the "B" portion at 100 working days with listed subcontractors requiring an excess of 100 working days - this is an admission by MS/ACC that they did indeed unbalance their bid - a practice that has no alternative but for the State to render their bid non-responsive.
- 4) While MS/ACC may be unsure of the point GSB makes in regards to Safety Striping Service's bid - the State surely can see that this is the same bid practice in reverse that the State used in determining that CC Myers bid was non-responsive. While MS/ACC listed Safety Striping for 100% of the work, Safety Striping's bid items do not add up to the item prices listed in MS/ACC's bid.
- 5) Further, as we pointed out in our initial bid protest, the fact that MS/ACC's 24 hour subcontractor submission list omits that at least two of their listed subcontractors also bid the Mobilization Item - in the case of REW and Safety Striping this item's value was in excess of \$400,000.00. Their omission of this bid item listing for these subcontractors is certainly material to the bid, and by the omission of these items from the listing would inherently provide MS/ACC a competitive advantage as clearly the State, from the bid documents does not have a full portrayal of the magnitude of the listed subcontractors work value. Without this

information – MS/ACC now has provided itself the advantage of “bid shopping and bid peddling” for which they successfully protested the bid of CC Myers on this same project.

For the reasons stated above, the State must evaluate the bid of MS/ACC as non-responsive, and award the contract to Golden State Bridge, Inc. the lowest responsive bidder.

Sincerely,



David Riccitiello
President, Golden State Bridge, Inc.

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To: CALMAN'S AWARDS	From: Dave Riccitero
Fax: (916) 227-6282	Pages: 3
Phone:	Date: 11-6-2014
Re: 04-041004	cc:

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