

**DEPARTMENT OF TRANSPORTATION**  
DIVISION OF ENGINEERING SERVICES  
OFFICE ENGINEER, MS 43  
1727 30<sup>th</sup> 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!*

June 20, 2013

Facsimile: (925) 838-5915

Hal Stober, President  
Gordon N. Ball, Inc.  
333 Camille Avenue  
Alamo, CA 94507

04-0A0904  
04-Sol-80-R24.8/R25.2  
B.O. 3/26/13

Dear Mr. Stober:

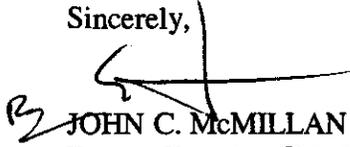
The Department of Transportation (Caltrans) provided a response to Gordon N. Ball, Inc. (Gordon Ball) for contract 04-0A0904 on May 1, 2013, regarding its nonresponsive finding. Caltrans did not address the attached correspondence dated May 2, 2013, individually since the aforementioned correspondence already provided the explanation for the finding.

The process of bidding is very competitive and as you are aware, each bid and each contract is awarded based on the face of the bid. Caltrans strives to protect the integrity of the bidding process by ensuring the conformity in all bid documents. In this case, the Subcontractors Listing originally submitted on March 26, 2013 and later changed on March 27, 2013, to include additional items expanded the scope of work. This change was in violation of the bidding instructions as well as the Public Contract Code. To allow a contract to be awarded under a known violation, would circumvent the competitive bidding process and would be a material benefit to Gordon Ball.

Caltrans has reviewed Gordon Balls request for reconsideration of this issue and upholds the original nonresponsive finding. Furthermore, this contract has already been awarded to Ghilotti Brothers on May 21, 2013.

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



Gordon N. Ball Inc.

MSC 43

May 2, 2013

General Engineering Contractors

Office Engineer  
California Department of Transportation  
1727 30<sup>th</sup> Street  
Sacramento, CA 95816-7005

Tel 925.838.5675

Attn: Earl Seaberg, Chief, Office of Contract Awards & Services  
John McMillan, Deputy Division Chief

Fax 925.838.5915

Reference: 04-0A0904  
04-Sol-80-R24.8/R25.2  
Bid 3/26/13

333 Camille Avenue

Subject: Protest of Determination of Nonresponsive - Gordon N. Ball, Inc.

Alamo, CA 94507

Gentlemen:

Reference is made to the April 8, 2013 determination of the Department that Gordon N. Ball, Inc. is nonresponsive, the Gordon N. Ball, Inc. response to that determination dated April 17, 2103, and the subsequent explanatory correspondence by the Department dated May 1, 2013, all regarding the above referenced subject. In accordance with Section 3-1.02 of the Amendments to the 2006 Standard Specifications, we hereby protest the determination by the Department that the bid by Gordon N. Ball, Inc. is nonresponsive.

The document for which the Department determined the bid to be nonresponsive contained clerical and administrative errors. The information that the Department is basing its decision upon is nonsensical, it clearly did not provide Gordon N. Ball, Inc. any ability for financial gain, and the Department is in possession of other submitted documents of Gordon N. Ball, Inc. that clearly indicate the actual intentions of the bid absent the clerical error. The bid and post bid documents demonstrate that there was no intention to perform the contract as the clerical error indicated.

Schotka was used in the bid of Gordon N. Ball, Inc. and was listed to perform CAS (Item 14), Crash Cushion (Item 19), and Roadway Sign work (Items 64 & 65). Additionally, Truesdell was used in the bid of Gordon N. Ball, Inc. and was listed to perform Concrete Repair Work (Items 57 & 58). The work involved with Bid Items 57 & 58 is highly specialized. Schotka does not perform this type of work, and thus Gordon N. Ball, Inc. would never intentionally list Schotka for it. Truesdell specializes in this type of work, and is a very good subcontractor to be used. Notably, the listing for Truesdell was not indicated to be partial in the post bid submittal, therefore the record shows that it was intended for Truesdell to perform Bid Items 57 & 58 in its entirety.

Additionally, because Schotka is a DBE firm and their participation on the project was used as part of the DBE participation that the bid committed to, the Good Faith Effort documentation that was submitted by Gordon N. Ball, Inc. clearly indicates the value and description of the work intended for Schotka. If there was any intention by Gordon N. Ball, Inc. to inflate the participation of Schotka by also including Bid Item 57 & 58 work, then that work would have been included as part of the Good Faith Effort documentation.

As the documents that are in possession of the Department indicate, clearly Bid Items 57 & 58 were not included by Gordon N. Ball, Inc. as part of the work to be performed by Schotka.

We cannot provide good explanation as to why Bid Items 57 & 58 were erroneously written on the post bid subcontractor listing for Schotka. Upon recent review, it does indicate to us that two (2) of the four (4) bid items that were written for Schotka were written at different times, and perhaps with a different pen. We do know that staff, including this author, were under high pressure at the time of completing the subject post bid document, as preparations were being made for a very large bid that let the day immediately after this March 26, 2013 bid.

We apologize for the time and effort that the clerical and administrative error by Gordon N. Ball, Inc. has caused on this contract. We father urge careful consideration of the facts explained herein, and examination of documents that are in the possession of the Department that have been referred to that substantiate our statements. If it is any consolation, there is the fact that if the Department can find reason to uphold this protest, then there is a direct cost saving to be realized of approximately \$150,00.00 on the contract.

If desired and helpful, we extend an offer to meet at the convenience of the Department to discuss this issue further. If there is anything to discuss, please contact the undersigned.

Sincerely,

GORDON N. BALL, INC.

A handwritten signature in black ink, appearing to be 'H. Stober', written over a faint circular stamp or watermark.

Hal Stober  
President

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

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

Jun 20 2013 04:57pm

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STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

EDMUND G. BROWN Jr., Governor

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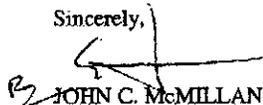
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