

July 22, 2014

VIA Facsimile 916-227-6282

John McMillan
Deputy Division Chief
Division of Engineering Services
Office Engineer, MS 43
1727 30th Street
P.O. Box 168041
Sacramento, CA 95816-8041

Re: Contract 04-152724
Bids Opened: July 8, 2014
Response to Response Letter of Bay Cities Paving and Grading Inc.

Dear Mr. McMillan,

On July 21, 2014, Bay Cities Paving and Grading Inc. (BCP) responded to O.C. Jones & Sons, Inc.'s (OCJ) protest letter of July 17, 2014. The general basis of BCP's response is that BCP made a simple 'clerical error' by transposing the placement of a hyphen in the work item listing (column 2) for Central Striping Service. BCP contends that the "transposing of a hyphen is a clerical error which did not affect pricing", and did not provide an advantage over OCJ.

OCJ does not agree that BCP's Subcontractor List error was simply a misplaced hyphen. In fact, there are errors throughout BCP's Subcontractor List Form which are directly or indirectly related to the listing of Central Striping Service (CSS). The CSS bid day quote is attached for reference (Attachment A).

- 1) First, BCP claims in their response letter that A. Teichert & Sons (ATS) also listed CSS for the striping work on this contract. This is incorrect. ATS listed Chrisp Company for the items of work similar to the CSS quote.
- 2) The quote provided by CSS, and acknowledged by BCP in their response letter, includes a price for bid item no. 155, Mobilization for \$20,000. However BCP failed to describe or list this item of work

1520 Fourth Street, Berkeley, California 94710-1774
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on their Subcontractor List Form even though it was clearly a part of the CSS bid. OCJ and ATS correctly listed item 155 (partial percentage) with the items of work for CSS and Chrisp Company respectively (Attachment B & C).

- 3) BCP claims their error was clerical, and simply a misplaced hyphen. BCP claims they wrote "1(p) 30-37 39, 131-135 instead of 1(p) 30, 37-39, 131-135. However, the misplaced hyphen is not the only discrepancy with the CSS listing. OCJ's protest letter states :

While it is clear items 30 and 37 match the description of work listed by BCP in column 4 for CSS, Items 31, 32, 33, 34, 35, and 36 in no way match the description for "Striping" related work. These items of work are not found within the Pavement Delineation (PD) drawings, or within the Special Provisions or State Standards as work relating to Striping, Markings, Markers, Stripe Removal or Pavement Delineation.

The listing of items 30-37 cannot simply be the result of a misplaced hyphen. This is demonstrated of the fact that items 31, 32, 33, 34, and 35 are not listed with other subcontractor's work on the BCP Subcontractor List Form. Bid item nos. 32 and 34 are clearly work items associated with a Metal Beam Guardrail (Midwest Guardrail) subcontractor. BCP, and OCJ, listed Midstate Barrier Inc. (MBI) for the guardrail system work on the Subcontractor List Form (Attachment D & E). While OCJ, and ATS, correctly listed MBI for work items 32, 34, 119, 122, 125-127, in accordance with the MBI quote (Attachment F), BCP only lists MBI for work items 122 and 125 on their Subcontractor List (Attachment E). BCP did not list MBI for work items 32 and 34 because it had already listed those items under CSS, which goes far beyond a simple 'hyphen clerical error'.

- 4) BCP listed MBI for work described as "Midwest Guardrail System and related". However, they did not include bid items 126 and 127 in column 2. These items were included on the MBI quote (Attachment F), and are clearly "related" to the guard rail system. In fact, the Terminal Systems (126 & 127) physically attach to the Midwest Guardrail System (item 122), and are always installed by the guardrail system subcontractor.

Based on the above, it is clear that this is not the case of a simple 'clerical error'. Numerous errors occurred with BCP's CSS listing, which permeated to the MBI listing. It is easy for BCP to claim that their error did not provide an advantage over OCJ; however the result of the error(s) allows BCP to re-negotiate six to seven items of work that should have been included in the CSS or MBI listing. Most sub list errors over the past years have not resulted in an advantage for the bidder, but they have resulted in contractors being deemed non-responsive. Typical errors of the past have included a misplaced word in the description of work, a

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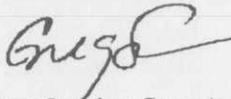
misaligned percentage, or a misplaced bid item number in column 2 of the sub list form. These errors were never considered 'clerical' in nature by the Department, and they almost never provided an advantage to the bidder; but they did consistently result in a declaration of a non-responsive bid by the Department.

As stated in our original Letter of Protest, the Department has a duty to not only enforce its bid requirements, but more importantly, to act in a fair and uniform manner towards all contractors.

Based on this information, we request that the Department uphold this protest and award the contract to O.C. Jones & Sons, Inc., the lowest responsive bidder.

If you have any questions or require additional information, please contact me.

Sincerely,
O.C. Jones & Sons, Inc



Greg Souder -Secretary

Enclosure: Attachments A, B, C, D, E, F

07/21/2014 16:28

P.006/010

From: ~~Contract Striping~~

Fax: (916) 835-1272

To:

Fax: +1 (925) 837-2122

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California LIC #003896 CLASS C02
Nevada LIC #C-11288
Nevada LIC #0039313
Oregon LIC #118214
Small Business Enterprise #00210572

Bid Proposal-Rev 2

Attachment A

TO: Contractors
LOCATION: Rte 4/242 Contra Costa County
PROJECT: Caltrans 04-152724

QUOTED BY: Kenneth Jones
BID DATE: Monday, July 8, 2014
BID TIME: 2:00 PM

ITEM #	ITEM DESCRIPTION	UNITS	UOM	UNIT PRICE	TOTAL AMOUNT
1	LEAD COMPLIANCE	1	LS	1,500.00	1,500.00
7	TEMPORARY TRAFFIC STRIPE (PAINT)	12,000	LF	1.50	18,000.00
30	REMOVE YELLOW THERMO TRAFFIC STRIPE (MAX WASTE)	9,900	LF	1.50	14,850.00
37	REMOVE THERMOPLASTIC TRAFFIC STRIPE	19,400	LF	0.50	9,700.00
38	REMOVE THERMOPLASTIC PAVEMENT MARKING	700	SF	4.00	2,800.00
39	REMOVE PAVEMENT MARKER	580	EA	2.00	1,160.00
131	THERMOPLASTIC TRAFFIC STRIPE	200	LF	10.00	2,000.00
132	4" THERMOPLASTIC TRAFFIC STRIPE	24,600	LF	1.50	36,900.00
133	8" THERMOPLASTIC TRAFFIC STRIPE	5,330	LF	3.00	15,990.00
134	THERMOPLASTIC PAVEMENT MARKING	750	SF	10.00	7,500.00
135	PAVEMENT MARKER (RETROREFLECTIVE)	600	EA	10.00	6,000.00
155	MOBILIZATION	1	LS	20,000.00	20,000.00
SEE PAGE 2 OF 2 FOR SPECIFIC TERMS AND CONDITIONS RELATING TO THIS QUOTATION. THIS TRANSMISSION CONSISTS OF TWO PAGES. IF ONE TRANSMISSION IS NOT LEGIBLE PLEASE CONTACT OUR OFFICE.					TOTAL 5 138,960.00

ACCEPTED BY: _____

TITLE: _____

P.O.# OR CCO#: _____

Attachment B

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION SUBCONTRACTOR LIST DS-06-01022 (REV. 12/07)

Bidder Name: O. C. Jones & Sons, Inc.

The bidder must identify each subcontractor performing work in an amount in excess of 1% of 1 percent of the total bid or \$10,000, whichever is greater (Pub. Cont. Code § 4100 et seq.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-8282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of the Bid Subcontracted	Column 4: Description of Subcontracted Work
Central Stamping Rancho Cordova, CA Lic #442836	107	37.1%	Work as described in Bid Item Numbers: 107, 507, 7, 30, 37, 39, 131-135, 155(P)
	507	0.1%	
	7, 30, 37, 39	700%	
	131-135	700%	
	155(P)	7.0%	
IDW Construction Livermore, CA Lic #47414	35, 41, 42	100%	Work as described in Bid Item Numbers: 35, 41, 42, 106-110, 112, 113, 151, 155(P), 90(P), 117
	90(P)	75.4%	
	106-110	100%	
	112, 113, 117	100%	
	151	100%	
	155(P)	0.7%	

(P) - Partial

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TEICHERT CONSTRUCTION Fax: 530-406-8299

Jul 9 2014 12:25pm

Jul 9 2014 12:16pm P007/D11

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

SUBCONTRACTOR LIST

DES-CE-0102.2 (REV 3/2011)

Bidder Name: A. Teichert & Son, Inc

dba Teichert Construction

The bidder must identify each subcontractor performing work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Cont Code § 4100 et seq.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6292 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid.

Attachment C

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
Chrisp Company Freemont, CA 374600	1	50%	Work as described in the following bid items: 1, 7, 30, 37, 38, 39, 131, 132, 133, 134, 135, 155
	7	100%	
	30	100%	
	37	100%	
	38	100%	
	39	100%	
	131	100%	
	132	100%	
	133	100%	
	134	100%	
135	100%		
	155	6%	

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07/09/2014 11:13

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Attachment D

STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION SUBCONTRACTOR LIST DEC 06 01:22 (REV 5/2011)

Bidder Name: O.C. Jones & Sons, Inc.

The bidder must identify each subcontractor performing work in an amount in excess of 1% of 1 percent of the total bid or \$10,000, whichever is greater (Pub. Cont. Code § 4100 et seq.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-8262 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
Worobus & Wilson San Rafael, CA Lic #362903	54, 57-68, 70-72, 155(P)	100% 100% 100%	Work as described in Bid Item Numbers: 54, 57-68, 70-72, 155(P)
Wideman Pacific Stockton, CA Lic #529261	32, 34, 119, 121, 125-127	100% 100% 100%	Work as described in Bid Item Numbers: 32, 34, 119, 121, 125-127

(P) - Partial

ADA Notice

The Department of Transportation is committed to providing an accessible environment for all users of its services. For more information on the Department's ADA program, please contact the Department's ADA Coordinator at (916) 227-8262.

Contract No. 04-152724

Received
Jul 9 2014 11:05AM Bay Cities Paying-925-697-2122
STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
SUBCONTRACTOR LIST
DES-DE-0102.2 (REV 2/2011)

Jul 9 2014 11:11am No. 0439 P. 4 4 of 4
Bidder Name: Bay Cities Paving & Grading

The bidder must identify each subcontractor performing work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Cont Code § 4100 et seq.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid.

Attachment E

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
Midstate Barrier Stockton	124, 128, 129	100	Concrete Barrier (Type 60, 60ms) Concrete Barrier (Transition)
Acacia Environmental Santa Barbara	18, 19, 23, 25, 75 - 82	100	Temporary Erosion Control, Permanent Erosion Control and related
Midstate Barrier Inc Stockton	101, 102	100	Furnish Sign Structure, Install Sign Structure
✓ Midstate Barrier Inc Stockton	122, 125	100	Midwest Guardrail System and related

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TUE 12:15 PM MIDSTATE BARRIER INC.

FAX: 12099449569

P. 004/004

Attachment F

4/4

Proposal MIDSTATE BARRIER, INC. Job Code: 5285 Description: CDOT#04-152724/CC-Various Locations #5285

Table with columns: Pay Item No., Description, Proposal, Quantity, Unit of Measure, Unit Price, Total Price. Includes items like TREATED WOOD WASTE, REMOVE MBGR, GR DELINEATOR, etc., and a GRAND TOTAL of 608,517.00.

Proposal Certification

Submitted By: MIDSTATE BARRIER, Inc. GLA- #528261, exp.5.31.2015 STEVE GIFFORD ESTIMATOR, x210 07.08.2014

Signed:

[Handwritten Signature]

7.08.2014