

**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) 227-6300  
FAX (916) 227-6282  
TTY 711



*Flex your power!  
Be energy efficient!*

August 20, 2013

Facsimile: (707) 585-1601

Thomas Smith, Estimating Manager  
Ghilotti Construction Company, Inc.  
246 Ghilotti Avenue  
Santa Rosa, CA 95407

04-2A1104  
04-Nap-121-20.2/20.4 PM  
B.O. 07/24/2013

Dear Mr. Smith:

The Department of Transportation (Caltrans) received the attached letter dated August 7, 2013, from Ghilotti Construction Company (Ghilotti), protesting the bid submitted by Gordon N. Ball, Inc. (GNB). The protest alleges that GNB's original Subcontractor List form identified Bid Items 50-56 as "partial" in column 4 and on the 24-hour Subcontractor List, GNB shows Bid Items 50-56 as 100 percent in column 3. The protest alleges that these differences constitute an improper change to the Subcontractor List form.

Caltrans conducted a review of the bid documents and protest and found that the items described as "partial" erosion control are acceptable, since there are other Erosion Control items in the contract not listed. Therefore, Caltrans finds that GNB's bid is responsive.

Based on the above, Caltrans finds Ghilotti's protest lacks merit and will proceed to award the contract to the lowest responsible bidder provided that all requirements are met.

If you have any questions, please contact Nicole Butler, Contract Awards Analyst, at (916) 227-6292.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. McMILLAN".

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

Attachment



August 7, 2013

To: Earl Seaberg  
Contract Awards Branch Chief  
Department of Transportation  
Division of Engineering Services  
Office Engineer MS 43  
1727 30th Street  
Sacramento, CA 95816

Re: Bid Protest  
04-2A1104 Hwy 121  
Bid Date: July 24, 2013

Dear Mr. Seaberg,

On Wednesday, July 24, 2013, Ghilotti Construction Company bid the above referenced project. At the time of the bid opening Ghilotti Construction was the apparent 4<sup>th</sup> low bidder with Gordon N Ball Inc (GNB) being the apparent low bidder. During a review of GNB's submitted bid documents subsequent to the bid opening, it was determined that GNB failed to properly submit the "Subcontractor List" form. Accordingly, Ghilotti Construction Company is hereby formally protesting GNB's bid as nonresponsive.

The Dept. of Transportation should reject GNB's bid as nonresponsive because it failed to properly submit the Subcontractor List.

On the original Subcontractor List submitted on July 24, 2013, Nitta was identified to perform bid items 50-56 (Erosion Control) as "partial". However, the revised Subcontractor List, faxed on July 25, 2013, denotes that Nitta would be performing 100% of bid items 50-56 (Erosion Control). The change from "partial" to 100% constitutes an improper change to the Subcontractor List form. As a result of this improper change, the Department should reject GNB's bid as nonresponsive. (See Attachment A)

Also, during a review of Proven Management Inc (PMI)'s submitted bid documents subsequent to the bid opening it was determined that PMI failed to properly submit the Subcontractor List form and the Disadvantaged Business Enterprise (DBE) Commitment form. Accordingly, Ghilotti Construction Company is hereby formally protesting PMI's bid as nonresponsive.

— Engineering Contractor —

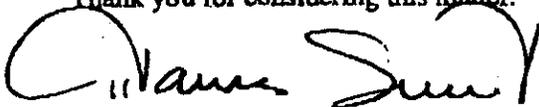
The Dept. of Transportation should reject PMI's bid as nonresponsive because of inconsistency between the Subcontractor List and the DBE Commitment form.

On the Subcontractor List form PMI identified Superior Hydroseeding as performing Bid Items 20, 21 and 50-56. However, on their DBE Commitment form PMI has deleted Bid Item 21 from Superior's scope. The deletion of Bid Item 21 changes the work to be performed by the subcontractor and constitutes a change that is not consistent with the Subcontractor List form. The DBE Commitment form states in part, "...item(s) of work listed above must be consistent... with the items of work in the "Subcontractor List" submitted with your bid". As a result of this inconsistency, the Department should reject PMI's bid as nonresponsive. (See Attachment B)

Also, PMI listed Schotka on the Subcontractor List form to perform 100% of Bid Item 2 (Construction Area Signs) the value of which is \$25,000. Yet on the DBE Commitment form PMI reduces the amount awarded to Schotka for Bid Item 2 to only \$6,590. Again, this reduction changes the work to be performed by the subcontractor and constitutes a change that is not consistent with the Subcontractor List form. As a result of this inconsistency, the Department should reject PMI's bid as nonresponsive. (See Attachment C)

Based on this information, Ghilotti Construction Company hereby protests an award of this contract to either Gordon N Ball Inc or Proven Management Inc.

Thank you for considering this matter.



Thomas Smith  
Estimating Manager  
Ghilotti Construction Company, Inc

Attachments

Received  
87/25/2013 11:17 9258385915

Jul 26 2013 12:20pm  
GORDON N. BALL, INC

PAGE 02/02

# ATTACHMENT A

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**SUBCONTRACTOR LIST**  
DES-DE-0102.X (REV 3/2011)

Bidder Name: Gordon N. Ball, Inc

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 Cost 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) 227-5282 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
Central Stripe Pacheco Cordova, CA	4, 5, 36, 37, 82, 83	100%	Striping + Markers
WC Maloney Stockton, CA	33, 35, 41, 43	100%	Demolition
Comblin Steel Thacklin, CA	62(P), 68, 69, 81(P)	53%	Rebar
Bentancourt Bros. Livermore, CA	7, 8, 84	100%	Temporary Signals + Flashing Beacons + maintain
CNJ Scottsdale, AZ	70	100%	Stain Concrete
Medina Orville, CA	79	100%	Tubular Piling
Confab Watson, CA	66	100%	Erect Precast
Nitta Loomis, CA	50, 51, 52, 53, 54, 55 56	100%	Erosion Control (Partial)
Medina Orville, CA	80	100%	Crash Cushion

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6119 or TDD (916) 654-6088 or visit Records and Permit Management, 1120 N Street, ME-08, Sacramento, CA 95814.

Contract No. 04-2A1104  
8

*Handwritten Signature*  
7.25.13

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

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

Aug 20 2013 01:09pm

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STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

EDMUND G. BROWN Jr., Governor

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Sincerely,

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

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