

Revised

Dreambuilder

1361 E. Lawson Ln, Placentia, Ca 92870
Ph (714) 646-3697, fax (714) 646-3698

Civil Engineering Construction

Bid Protest Letter

Department of Transportation
Office Engineer MS 43
1727 30th Street, Sacramento, Ca 95816
Ph: 916-227-6280 Fax: 916-227-6282
Attn: Office Engineer

Date: 7/9/2015

Sub: Bid protest for Caltrans Contract # 04-2G4201
Bid open on 6/16/2015 @ 2:00PM in Sacramento
Reference: Caltrans bid proposal for Contract # 04-2G4104

Dear Sir / Madam,

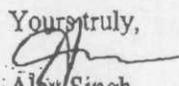
We bid this project and we were 3rd bidder on this project. We are filing fomal bid protest as follows:

1. 1st bidder Vanguard Construction failed to submit DBE Confirmation form for all of their listed DBE subcontractor and suppliers,
As per DBE submittal requirement for this contract, if bidder failed to submit signed DBE Confirmation form for their listed Subcontractor and suppliers, their DBE claimed participation will not be counted toward DBE goal.
Due to this Vanguard DBE goal achievement for this contract is zero percent and they are not meeting DBE goal and their bid is non responsive bid.
2. 2nd bidder MBI listed their subcontractor Quimu Construction, Inc for contracts
Item # 22 for Cold Plane Asphalt with work code claimed C4201
 - Item # 26 for Minor Hot Mix Asphalt with Work code claimed C3910. But as per DBE certification for Quimu Construction, Inc, they do not have these work code on or before bid date. As per Caltrans evaluation guidelines:
" DBE' participation will not be counted if the DBE is not certified at the time of bid or if a certified DBE does not possess the correct work codes."
 Hence claimed amount for Quimu Construction by MBI for item # 22 & 26 for \$3,450.00+ \$57,000 = \$60,450.00-is not going to be counted toward DBE goal and due to this new goal amount for MBI will be \$111,708.00 - \$60,450.00 = \$51,258.00 & new achieved contract goal will be only 7.2%, which is less than 15% of contract DBE goal. Therefore, MBI bid is non responsive bid for not meeting DBE goal.

Both bidders' bid is non responsive bid and therefore bid should be awarded to Dreambuilder.

Thank you for your consideration.

Yours truly,


Alex Singh
Project Coordinator

Back To Query Form

Search Returned 1 Records

Thu Jul 09 20:48:18 PDT 2015

Query Criteria

Firm ID: 33524

Firm Type: DBE

Firm ID	33524
Firm/DBA Name	QUIMU CONTRACTING, INC.
Address Line1	696 PRIDDY DRIVE
Address Line2	
City	DIXON
State	CA
Zip Code1	95620
Zip Code2	
Mailing Address Line1	P.O. BOX 1177
Mailing Address Line2	
Mailing City	DIXON
Mailing State	CA
Mailing Zip Code1	95620
Mailing Zip Code2	1177
Certification Type	DBE
E-Mail	quimu@sbcglobal.net
Contact Name	MIGUEL QUIROZ
Area Code	(707)
Phone Number	693-0289
Alt Area Code	()
Alt Phone Number	
Fax Area Code	(707)
Fax Phone Number	678-8384
Agency Name	DEPARTMENT OF TRANSPORTATION
Counties	03; 06; 07; 09; 17; 20; 21; 28; 29; 31; 32; 34; 39; 45; 46; 48; 49; 52; 57; 58;
Districts	01; 02; 03; 04; 06; 10;
DBE NAICS	237310; 237990; 238110; 238120; 238910;

ACDBE NAICS

Work Codes

C1601 CLEARING & GRUBBING; C1901 ROADWAY EXCAVATION; C1920 STRUCTURE EXCAVATION;
 C1930 STRUCTURE BACKFILL; C1940 DITCHES EXCAVATION; C2800 CONCRETE BASE; C5000
 PRESTRESSING CONCRETE CAST-IN-PLACE; C5150 CORE CONCRETE - REPAIR BRIDGE DECK; C5501
 STEEL STRUCTURES; C5570 STEEL CRIB WALL; C9980 DEMOLITION;
 A.General Engineering Contractor;

Licenses

Trucks

Gender

Ethnicity

Firm Type

M
 HISPANIC
 DBE

*Quimu Construction Inc
 don't have work code C3910*

Back To Query Form

& C4201

Second Bidder

19-15A10:41 RCVD

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
DBE - COMMITMENT
 DEB-DE-0102.17D (REV 12/2014)

CONTRACT NO: 04-2G4104	
BID AMOUNT: \$ 712,043.00	
BID OPENING DATE: June 16, 2015	
BIDDER'S NAME: Midstate Barrier, Inc.	
DBE GOAL FROM CONTRACT %: 15%	
DBE FIRM CONTRACTOR CERTIFICATION ¹ :	TOTAL NUMBER OF ALL SUBCONTRACTS (DBE & NON-DBE): 3
	TOTAL VALUE OF ALL SUBCONTRACTS (DBE & NON-DBE): \$234,723.00

BID ITEM NO.	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED ²	WORK CATEGORY CODES ³	NAME OF DBEs (Must be certified on the date bid is opened. Include California certification no., DBE address, and phone number. Show 2nd and lower tier subcontractors.)	AMOUNT (\$)
17	Remove Asphalt Dike	C9980	Quimu Contracting, Inc.	\$4,640.00
18	Remove Pipe	C9980	PO Box 1177	\$1,060.00
19	Remove Inlet	C9980	Dixon, CA 95620	\$3,000.00
22	Cold Plane Asphalt	C4201	(707) 693-0289	\$3,450.00
24	Roadway Excavation	C1901	DBE # 33524	\$11,000.00
26	Minor Hot Mix Asphalt	C3910		\$57,000.00
27	Minor Concrete Structure	C5105		\$17,600.00
28	12" CSP	C6650		\$3,900.00
29	3" Plastic Pipe Edgedrain	C6811		\$3,975.00
30	Rock Slope Protection-Method B	C7200		\$2,025.00
31	Rock Slope Protection-Fabric	C7200		\$200.00
33	Misc Iron and Steel	C7500		\$3,858.00

Show all DBE firms being claimed for credit, regardless of tier. Attach written confirmation from each DBE shown stating that it will be participating in the contract to perform the specific work shown for the specific amount agreed to.

The names of the 1st tier DBE subcontractors and items of work must be consistent with the Subcontractor List (Pub. Cont Code 9 9100 et seq.).

¹Each DBE prime contractor must enter its certification number and show all work to be performed by DBEs, including work performed by its own forces.

²If 100% of an item is not to be performed or furnished by the DBE describe the exact portion of the item to be performed or furnished.

³Use Work Category Codes from the California Unified Certification Program database

Total Claimed Participation

\$111,708.00 51,258
 (15.69) 7.2%

The bidder acknowledges that it is committed to use the DBEs shown on this form to meet the contract goal (15 CFR 26.53).

Correct goal %

Signature of Bidder

6.17.2015 209,944,9565
 Date (Area Code) Tel. No.

Person **Stephen V. Gifford**
 Vice President
 Estimator, Ext. 210

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 446-1233, TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95834.

FACT SHEET
Federally Funded Contracts
Evaluating DBE Participation
Role of OBEO, Contract Evaluation Unit
May 2013

The California Department of Transportation (Caltrans), Office of Business and Economic Opportunity (OBEO), Contract Evaluation Unit (CEU), is responsible for evaluating all Caltrans federally funded contracts and is responsible for counting Disadvantaged Business Enterprise (DBE) participation towards contract goals according to federal regulation. The CEU determines whether the goal has been met or an adequate good faith effort has been made by the contractor.

Bidder's Responsibility For Meeting DBE Requirements

Refer to the Special Provisions of the specific contract you are bidding on for your responsibilities. Contracts are advertised on the Office Engineer's (OE) website at http://dot.ca.gov/hq/esc/oe/weekly_ads/index.php and the Division of Procurement and Contracts' (DPAC) website at <http://caltrans-opac.ca.gov/contract.htm>.

Contract Evaluation Unit's Responsibility Counting DBE Participation

Step 1	A contract is received from Office Engineer (OE) or Division of Procurement and Contracts (DPAC) and the CALTRANS Bidder-DBE Commitment form from the prime contractor is reviewed to see if the prime contractor met the goal. If not, the good faith effort will be evaluated. See 49 CFR, Part 26, Appendix A, for good faith efforts guidance. This determination is based only on information timely submitted with the bid.
Step 2	<p>Review the CALTRANS Bidder-DBE Commitment form from the prime contractor to:</p> <ul style="list-style-type: none"> • ensure that the DBEs are certified by checking the California Unified Certification Program (CUCP) database [cross referencing DBE work category code(s) with contract bid items] (If the DBE is not certified, their participation will not be counted.) • ensure that the DBEs possess the correct work category code for the type of work they are listed to perform http://www.dot.ca.gov/hq/bep/find_certified.htm (If the DBE does not possess the correct work category code, their participation will not be counted.) • verify the dollar amount claimed for credit is accurate <ul style="list-style-type: none"> ◦ amount claimed for credit on DBE Commitment form is consistent with written confirmation (quote) from DBE.** ◦ amount claimed for credit is consistent with the prime contractor's bid and subcontractor listing <p>Written confirmation (quotes) from the DBEs are reviewed to verify if the DBEs are committed to do the work on the Caltrans Bidder DBE Commitment form.**</p> <p>**Important Note: Rate sheets that are generic will not be accepted in lieu of written confirmation (quotes). This determination is based only on information timely submitted with the bid.</p>
Step 3	<p>Counting DBE participation: DBE participation is "counted" only where it is demonstrated that a certified DBE possessing the correct work codes will be actively participating on the contract. CEU will count DBE participation as follows:</p> <ul style="list-style-type: none"> • The entire amount of that portion of a construction contract that is performed by the DBE's own forces are counted. • DBE participation will not be counted if the DBE is not certified at the time of bid or if a certified DBE does not possess the correct work codes. • The method for counting trucking towards the DBE goal requires the following additional documentation: motor carrier permit, truck title, registration, and proof of insurance, trailer or tanker registration, bills of lading, sub-hauling agreements, existing commitments of trucking on other jobs, and subcontract specific information (e.g., type of material hauled, number of trucks/trailers/tankers, load capacity, distance traveled, and schedule). Truckers need to own at least one, operable, insured truck. • DBE trucking firms receive 100 percent credit for the value of the hauling. DBE trucking firms who sublease to other DBE firms or DBE owner operators receive 100 percent of the value of the hauling. • DBE trucking firms who sublease to non-DBE trucking firms or non-DBE owner operators receive credit for the transportation arrangement or broker fees <u>only</u> – typically from 5 -20 percent of the value of the hauling. • Cost of material or supplies are counted at 80 percent for regular dealers. Those claiming to be regular dealers of bulk items must additionally demonstrate that they own and operate appropriate distribution equipment. <p>Important Note: There may be times when further clarification of commitment is requested for other types of work.</p>
Step 4	<p>Determination is made regarding whether goal was met. If goal was not met, the good faith effort documentation will be evaluated.</p> <p>Important Note: The steps above are not all inclusive. Other steps may be taken in the contract evaluation process.</p>
Step 5	The contracts are returned to OE or DPAC, whichever is applicable.

FACT SHEET
Federally Funded Contracts
Monitoring DBE Participation
During Construction
May 2013

Role of the Division of Construction

California Department of Transportation (Caltrans) resident engineers and inspectors monitor the contract work to ensure the DBEs listed on the approved CALTRANS Bidder-DBE Commitment form perform the items of work specified at the time of bid opening and that no improper substitutions occur. Monitoring includes documenting the work DBEs perform by completing inspection reports. Resident engineers and inspectors ensure that all DBEs are performing a commercially useful function (CUF).

CUF is a matter of contract compliance that achieves two objectives: (1) ensures that dollars counted towards DBE goals are merited, and (2) ensures the Federal Government that funds entrusted to the State of California meet federal requirements.

Code of Federal Regulations 49, Part 26.55(c)(1)(2) states, "A DBE performs a commercially useful function when it is responsible for execution of the work on the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved."

To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating a price, determining quality and quantity, ordering the material, and installing where applicable and paying for the material itself.

A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation.

To ensure DBEs are performing a CUF, the resident engineer or inspector documents the DBE's work in inspection reports and reviews additional documentation that verifies the DBE's participation. Some examples of the types of documents are:

- certified payroll records
- paid supplier invoices
- monthly trucking verification reports
- supplier bills of lading or purchase requests
- leases

Service and Architect and Engineering Contracts

Monitoring DBE participation, including whether a DBE is performing a CUF, are subject to the same guidelines as stated above [49 CFR, Part 26.55(c)(1)(2)].

For further details, please refer to 49 CFR, Part 26.55.