

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER, MS 43
1727 30th STREET
P. O. BOX 168041
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6299
FAX (916) 227-6282
TTY 711
www.dot.ca.gov



*Flex your power!
Be energy efficient!*

April 16, 2014

Facsimile: (925) 335-2663

Thomas G. Barr, Vice President
Ghilotti Bros./R M Harris JV
901 Howe Road
Martinez, CA 94553

04-3A8704
04-CC-680-22.7/24.8
B.O. 3/5/14

Dear Mr. Barr:

The Department of Transportation (Caltrans) received the attached letter dated March 21, 2014, Ghilotti Bros./RM Harris JV (Ghilotti/RM) protesting the bid submitted by Golden State Bridge, Inc. (GSB), on March 5, 2014, for the above contract.

According to the protest, Ghilotti/RM alleges that on bid day, GSB identified WABO Landscape & Construction as performing Soil Amendment, Plant Group I & M, Woo Mulch, and Foliage Protector. However, on the 24 hr submittal included the Rolled Erosion Control Product Blanket (bid item 159). The protest also alleges that GSB listed PC & N Construction, Inc. as performing Treated Wood Waste, Remove Guard Rail, Guard Railing Delineator, Object Marker, Midwest Guard Rail, Transition Railing, and End Capt, Alternative Inline Terminal System, and Crash Cushion (Type SCL-100GM). However, on its 24 hr submittal added Alternative Flared Terminal System (bid item 128). Additionally, GSB did not list bid item numbers 119 and 120 Guard Railing Delineator and Object Marker on the 24 hour submittal and claimed inadvertent clerical error on March 7, 2014, two days after bid day. Lastly, GSB included BioMaAS, Inc., on its Disadvantaged Business Enterprise (DBE) Commitment form, but did not include them on its Subcontractors List form.

Caltrans conducted a review of the bid documents for GSB, as well as this protest and GSB's response to the protest and determined the following;

1. The Rolled Erosion Control Product Blanket is an erosion control product and is used in the plant establishment process.
2. GSB identified PC&N on bid day for work described as Alternative Terminal System, which is guard rail related and Alternative Flared System is relative to this same work.
3. GSB did claim inadvertent error with respect to not eliminating the descriptions work associated with bid items 119 and 120, however, the error itself is immaterial based on the totality of the bid documents, including but not limited to the DBE submittal and the quote submitted by PC&N Construction. This error does not provide a competitive advantage to GSB, and therefore can be waived by Caltrans.
4. BioMaAs is a Consultant Service and is not providing subcontracted work and is therefore not required to be listed on the Subcontractor's List form.

For these reasons, Caltrans finds that the protest has no merit and will proceed to award this contract to the lowest responsive and responsible bidder, provided that all requirements have been met.

Mr. Barr
April 16, 2014
Page 2

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

Attachments

**Ghilotti Bros / RM Harris JV**

525 JACOBY STREET • SAN RAFAEL, CA 94901
TELEPHONE (415) 454-7011 FAX (415) 454-8376

STATE CONTRACTORS LICENSE # 941014



Via Facsimile (916) 227-6282 & Certified Mail

March 21, 2014

State of California

Department of Transportation

1727 30th Street, Bidder Exchange, MS 43

Sacramento CA. 95816

Attn: John C. McMillan, Deputy Division Chief, Office Engineer

Re: Contract No. 04-3A8704

Near Marina Vista, Rehabilitate Mococo OH and SB Mococo Off-Ramp

Protest of Bid Submitted by Golden State Bridge Inc.

This is a formal protest of the bid submitted by Golden State Bridge, Inc. (GSB) in connection with Contract No. 04-3A8704. The bid of GSB is nonresponsive and therefore must be rejected because GSB failed to properly submit the Subcontractor List. Thus, the Department should award the job to the lowest responsive bidder, Ghilotti Bros / RM Harris JV.

The Subcontractor List form states in part, "... 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." ***No other revisions to the form are permitted.***

In violation of this express requirement of the bid documents, GSB revised their Subcontractor List form by adding subcontracted work that was not listed on their bid day form. WABO Landscape and Construction was given more items than what was listed on the form at bid time, and PC & N Construction had some items added while others were removed. This is a violation of the Department's rules. Additionally, BioMaAS Inc. (BI) was listed as part of the DBE commitment but was not included in the subcontractor listing. Each one of these violations is sufficient to find GSB's bid non-responsive.



Ghilotti Bros / RM Harris JV



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STATE CONTRACTORS LICENSE # 941014

WABO Landscape & Construction, Inc. was originally listed by GSB to perform "Plant Establishment, Soil Amendment, Plant Group I & M, Wood Mulch, and Foliage Protector." However, bid item 159, Rolled Erosion Control Product (Blanket) work was added to WABO's work on the 24 hour Subcontractor List submitted by GSB. (See attached). The Rolled Erosion Control Product (Blanket) was not listed on their Subcontractor list form nor is it related to or a component of any of the listed items.

Also, GSB listed PC & N Construction Inc. as performing "Treated Wood Waste, Remove Guard Rail, Guard Railing Delineator, Object Marker, Midwest Guard Rail, Transition Railing, End Cap, Alternative Inline Terminal System, and Crash Cushion (Type SCL-100GM)" on bid day and then added bid item 128, "Alternative Flared Terminal System" to their 24 hour letter. This item was not listed on their subcontractor list at bid time and is not related to or a component of the other items.

Furthermore, GSB did not list the bid item numbers 119 and 120 respectively for Guard Railing Delineator and Object Marker on the 24 hour letter. Claiming "inadvertent clerical error," as GSB did on March 7 (two days after bid day) is insufficient cause for the Department to find them responsive. Cal. Pub. Cont. code § 4107.5 involves substituting one subcontractor for another, not revising your subcontractor listing form after bid time. Additionally, no affidavits were filed as required by § 4107.5, and therefore GSB cannot avail itself of this provision. This failure itself is sufficient for the Department to find GSB non-responsive.

Another requirement of the Contract is that the names of the first tier DBE subcontractors and their respective items of work be consistent with the names and items of work in the Subcontractor List. GSB included BioMaAS Inc. (BI) in their DBE commitment but did not include BI in their Subcontractor List even though the value of BI's work exceeds $\frac{1}{2}$ of 1% of the total Contract Bid. BI's work makes him a subcontractor, appearing onsite to conduct item work paid for at a lump sum value; thus, they needed to be listed on the Subcontractor list. Failing to list BI is sufficient to consider GSB's bid non-responsive.

On past contracts, the Department has rejected bids as nonresponsive where there is even a minor revision between the subcontractor list provided with the bid and the subcontracting information provided 24 hours later.

The Department owes a duty to enforce its bid requirements in a fair and uniform manner. Accordingly, because GSB has violated the Subcontracting Fair Practices Act of the Public Contract Code and the Department's longstanding bid requirements by



Ghilotti Bros / RM Harris JV



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TELEPHONE (415) 454-7011 FAX (415) 454-8376

STATE CONTRACTORS LICENSE # 941014

seeking to change their subcontractor listings after bids were opened, the GSB bid must be rejected as nonresponsive. To do otherwise would give this contractor an unfair advantage in the bidding process.

We therefore respectfully request that the Department uphold the Ghilotti Bros / RM Harris JV protest and award the contract to our company, which submitted the lowest responsive bid for Contract No. 04-3A8704.

Thank you for your attention to this matter and please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "David Harris", is written over a horizontal line. The signature is fluid and cursive.

David Harris

Joint Venture Partner

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION
BID TO THE DEPARTMENT OF TRANSPORTATION
 DES-OE-0102.1 (REV. 3/2011)

CONTRACT NO. 04 . 3A8704

NAME OF BIDDER GOLDEN STATE BRIDGE, INC.
 BUSINESS P.O. BOX _____
 CITY, STATE, ZIP _____
 BUSINESS STREET ADDRESS 2990 BAY VISTA COURT, SUITE D
(include even if P.O. Box used)
 CITY, STATE, ZIP BENICIA CA 94510
 TELEPHONE NO: AREA CODE (925) 372-8000
 FAX NO: AREA CODE (925) 372-8001
 CONTRACTOR LICENSE NO. BS1187

1. Bidder agrees, if this bid is accepted, to enter into a contract with the Department, in the form included in the Standard Specifications, to perform the work provided in the Contract under the terms of the Contract for the price or prices bid.

For a lump sum or unit price based bid, Bidder additionally agrees to perform the work within the number of working days shown on the Notice to Bidders.

For a cost plus time based bid on a contract without a plant establishment period, Bidder additionally agrees to perform the work within the number of working days bid.

For a cost plus time based bid on a contract with a plant establishment period, Bidder additionally agrees to perform the non-plant establishment work within the number of working days bid for non-plant establishment work.
2. For a lump sum based bid, Bidder submits this bid with a total price in the total bid space provided on the Bid Item List. For a unit price or cost plus time based bid, Bidder submits this bid with a unit price and the item total (the product of the unit price and the quantity) for each item and a total price (the sum of the item totals) in the spaces provided on the attached Bid Item List. For a unit price with additive item based bid, Bidder submits this bid with a unit price and an item total for each item and a total base bid (the sum of the item totals) and the additive items in the spaces provided on the attached Bid Item List. Additionally, for a cost plus time based bid, Bidder submits this bid with working days bid for non-plant establishment work, total bid for lime, and total bid for bid comparison in the spaces provided on the Bid Item List. Bidder agrees:
 - 2.1. If a discrepancy between the unit price and the item total exists, the unit price prevails except:
 - 2.1.1. If the unit price is illegible, omitted, or the same as the item total, item total prevails and the unit price is the quotient of the item total and the quantity.
 - 2.1.2. If a decimal error is apparent in the product of the unit price and the quantity, the Department will use either the unit price or item total based on the closest by percentage to the unit price or item total in the Department's Final Estimate.
 - 2.2. If the unit price and the item total are illegible or are omitted, the bid may be determined nonresponsive. If a lump sum total price is illegible or is omitted, the bid may be determined nonresponsive.
 - 2.3. Bids on lump sum items are item totals. If a unit price for a lump sum item is entered and it differs from the item total, the item total prevails.
 - 2.4. Entries are to be expressed in dollars or decimal fractions of a dollar. Symbols such as commas and dollar signs are ignored and have no significance in establishing unit price or item total.
 - 2.5. Unit prices and item totals are interpreted by the number of digits and decimal placement. Do not round item totals or the total bid.

03/05/2014 18:06

Received

Mar 5 2014 05:02pm

(FAX)

P.002/006

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
SUBCONTRACTOR LIST
DES-06-01022 (REV 9/2011)

Bidder Name: GOLDEN STATE BRIDGE, 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 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.

Column 1: Business Name and Location	Column 2: Bid Item No.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
HARRIS REBAN LIVERMORE, CA.	98	92%	REBAR
	99	100%	
	133	25%	
	134	15.5%	
DIRT & AGGREGATE INTERLOCK FAIRVIEW, OREGON PCEN CONSTRUCTION, INC BYRON, CA	36	100%	TREATED WOOD WASTE
	40	100%	REMOVE MBR
	122	100%	OR DELINEATOR OBJECT MARKER
	125	100%	MID WEST GUARD RAIL
	126	100%	TRAVEL RAILS
	127	100%	END CAP
	128	100%	ALT. TERMINAL SYSTEM
	129	100%	CRASH CUSTION (SCL-100 6+)
Alternative Flared Terminal System →	Items 119 and 120 not listed.		Alternative Flared Terminal System not listed at bid time.

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 264-9470 or TDD (916) 264-3880 or write Records and Forms Management, 1120 N Street, MS-06, Sacramento, CA 95814.

03/05/2014 18:06

Received

Mar 5 2014 05:02am
FAX

P.004/006

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
SUBCONTRACTOR LIST
DES-05-01022 (REV 3/2011)

Bidder Name: GOLDEN STATE BRIDGE, 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 Conf 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) 227-8252 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
WABO SELBY'S SOIL EROSION CONTROL, INC NEWCASTLE, CA	23	100%	EROSION CONTROL Temp & permanent
	27	100%	
	28	100%	
	33	100%	
	70	100%	
	71	100%	
	72	100%	
	73	100%	
	74	100%	
	76	100%	
77	100%		
78	100%		
WABO LANDSCAPE & CONSTRUCTION HERCULES, CA	69	100%	PLANT EST. SOIL AMENDMENT PLANT (GROUP 12M) WOOD MULCH Foliage Protector Rolled Erosion Control Product (blanket) not listed
	152	100%	
	153	100%	
	154	100%	
	155	100%	
	156	100%	
	157	100%	
	159	100%	
	167	4.1%	

Rolled Erosion Control Product (blanket)

Rolled Erosion Control Product (blanket) not listed

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1-10-14 10:25 AM

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
CALTRANS BIDDER - DBE - COMMITMENT
DES-05-D192.10C (NEW 02/2012)

This information may be submitted with your bid proposal. If it is not, and you are the apparent low bidder or the second or third low bidder, it must be submitted and received as specified in section 2 of the specifications. Failure to submit the required DBE information will be grounds for finding the bid nonresponsive.

CONTRACT NO. 04-3AB704

BID AMOUNT \$ 12,595,270.30

BID OPENING DATE 2/19/2014

BIDDER'S NAME GOLDEN STATE BRIDGE, INC.

DBE GOAL FROM CONTRACT % 7%

DBE PRIME CONTRACTOR CERTIFICATION¹ n/a

more than .5% of total bid value

BID ITEM NO	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED ²	FOR CALTRANS USE ONLY	NAME OF DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)	DOLLAR AMOUNT DBE ³
16, 17, 18, 19, 21, 22	WATER QUALITY & SWPPP WORK	*	BIOMAAS, INC 333 VALACIA ST SUITE 324, SF CA 94103 415 255 8077 #36242 *CONSULTANT	\$ 118300.00
	Not listed on subcontractor form			

IMPORTANT: Identity of DBE firms being claimed for credit, regardless of tier. Names of the First Tier DBE Subcontractors and their respective item(s) of work listed above must be considered, where applicable, with the names and items of work in the "Subcontractor List" submitted with your bid. Copies of the DBE quotes are required.

- 1 DBE prime contractors must enter their certification number and indicate all work to be performed by DBEs including work performed by its own forces.
- 2 If 100% of item is not to be performed or furnished by DBE, describe exact portion of item to be performed or furnished.
- 3 See section 2-1.12 of the specifications to determine the credit allowed for DBE firms.

Submit to

MSC 43
OFFICE ENGINEER
DEPARTMENT OF TRANSPORTATION
1727 20TH STREET
DACRAMENTS, CA 95810-7005

Total Claimed Participation \$ _____ %

Signature of Bidder: David Ricciello

315114
Date: 2/19/2014 (Area Code) Tel. No: 925 372-8000

Person to Contact: DAVID Ricciello (Please Type or Print)

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

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

Apr 16 2014 04:02pm

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
919253352663	Normal	16:04:00pm	1'57"	7	* O K	

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

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DIVISION OF ENGINEERING SERVICES
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1. The Rolled Erosion Control Product Blanket is an erosion control product and is used in the plant establishment process.
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4. BioMaAs is a Consultant Service and is not providing subcontracted work and is therefore not required to be listed on the Subcontractor's List form.

For these reasons, Caltrans finds that the protest has no merit and will proceed to award this contract to the lowest responsive and responsible bidder, provided that all requirements have been met.