

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER, MS 43
1727 30th STREET
P. O. BOX 168041
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6300
FAX (916) 227-6282
TTY 711



*Flex your power!
Be energy efficient!*

June 18, 2013

Facsimile: (831) 768-4021

Rodney Jenny, Executive Vice President
Granite Rock Company dba Pavex Construction Division
120 Granite Rock Way
San Jose, CA 95136

04-3E2904
04-SC1-82-14.3/19.2
B.O. 04/16/2013

Dear Mr. Jenny:

The Department of Transportation (Caltrans) received letters dated April 24, 2013 and June 14, 2013 from Granite Rock Company dba Pavex Construction Division (Pavex) protesting MCK Services, Inc. (MCK's) bid. The protest alleges that MCK failed list Mercado Trucking (Mercado) on the original and 24-hour Subcontractor Lists and did not submit a quote from Mercado. Pavex requests that the bid submitted by MCK be found nonresponsive and that Caltrans award the contract to Pavex.

The Office of Business and Economic Opportunity, Contract Evaluation Unit (CEU) evaluated the DBE Commitment form and documents submitted by MCK and found that MCK failed to include Mercado's quotation document with their DBE information, as required, within 4 business days after the bid opening date. Therefore, Mercado's participation had been disallowed. Caltrans finds Pavex's protest has merit. However, the CEU staff determined that MCK demonstrated a good faith effort to meet the DBE participation goal for this contract.

Based on the above, Caltrans 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,

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

Attachment



June 14, 2013

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 - 8300
Fax (916) 227 - 6282

Attn: Mr. John C. McMillan, Deputy Division Chief

Re: 04-3E2904 FOR CONSTRUCTION OF STATE HIGHWAY IN SANTA CLARA COUNTY IN AND NEAR SANTA CLARA, SUNNYVALE AND MOUNTAIN VIEW FROM LAWRENCE EXPRESSWAY TO 0.4 MILE WEST OF ROUTE 82/85 SEPARATION.

Subject: *Reply to MCK letter dated June 3, 2013*

Dear Mr. McMillan,

I have had an opportunity to review the letter written by Mr. Hazen of MCK Services and would like to comment to its content as follows.

I can agree with Mr. Hazen that trucking is not a subcontracted item unless you intend to utilize that scope of work towards your DBE goal. Mr. Hazen did not list Mercado Trucking on the bid day subcontractor form but did list Mercado Trucking on its DBE commitment form submitted four (4) days later.

By allowing MCK Services to utilize Mercado Trucking on its DBE Commitment form (4) days after the bid to make the 3% DBE goal you unfairly give MCK Services an unfair advantage that Pavex Construction did not have. Essentially, MCK Services or any other contractor that utilizes this method to bid has four additional days to select a trucker to perform work on a contract or meet the required impact goals.

Being the apparent low bidder would give MCK Services or any other contractor a great leverage to negotiate lower costs to complete the work. Mr. Hazen is correct in that we did not list a trucker on our subcontract turn in form that is to the fact that we are not



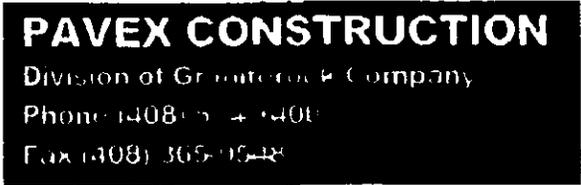
required, as we did not list a trucker on our (4) day DBE Commitment form to achieve the DBE goal set by this contract.

Based on the facts presented herein, Pavex hereby requests that the bid submitted by MCK be found nonresponsive and that the Department uphold and validate Pavex's bid protest and award the contract to Pavex which submitted the lowest responsive and responsible bid for Contract 04-3E2904.

Thank you for your attention to this matter and should you need to contact me please find my numbers and email address below.

Respectfully,
Graniterock Company dba Pavex Construction Division

Paul L. Cianciarulo
Chief Estimator
Phone 408-574-1423
Fax 408-365-9548
Email pcianciarulo@graniterock.com



Fax

To: Mr. John C. McMillan **From:** Paul Cianciarulo

Fax: 918-227-8282 **Pages:** 3

Phone: 918-227-8300 **Date:** June 14, 2013

Re: Bid Protest - 04-3E2904 **CC:**

Urgent For Review Please Comment Please Reply Please Recycle

• **Comments:**

Mr. McMillan,

Please see attached bid protest rebuttal to MCK Services letter dated June 3, 2013

Thank you,

Graniterock Company dba Pavex Construction Division

Paul Cianciarulo
Chief Estimator



April 24, 2013

Department of Transportation
Division of Engineering Services
Office Engineer, MS 43
1727 30th Street
P.O. Box 168041
Sacramento, CA 95816-8041

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Subject: *Formal Protest of Bid Submitted by MCK Service Inc.*

Dear Mr. McMillan,

Please accept this letter as formal protest to the bid submitted by MCK Services Inc. regarding Contract 04-3E2904. Graniterock Company dba Pavex Construction Division (Pavex) is currently the Second Lowest bidder. MCK Service Inc. bid is nonresponsive and must be rejected based on the Departments bidding requirements.

Per the State of California Subcontractor List, form DES-OE-0102.2 (REV 3/2011) it states "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 - 4 within the time specified will result in a nonresponsive bid."

On the bid day submission MCK Service Inc fails to list Mercado Trucking for bid items 9, 10 and 11 (all partial) in Columns #1 and #4 on the Subcontractor List. MCK Service Inc. again fails to list Mercado Trucking for bid items 9, 10 and 11 (all partial) on the Subcontractor List required within 24 hours of bid submission with additional Columns #2 and #3 to be completed

120 Granite Rock Way, San Jose

(408)574-1400 / (408)365-8349 Fax



On the 4th day following the bid submission MCK Service Inc. per the requirements of the Department of Transportation submitted its CALTRANS BIDDER - DBE - COMMITMENT form DES-OE-0102.10C (NEW 06/2012). Here, MCK Service Inc. lists Mercado Trucking for bid items 9, 10 and 11 (all partial) for \$30,000.00 in value of trucking. A review of MCK Service Inc. DBE Good Faith documentation clearly shows where Mercado Trucking was solicited for a bid by Fax/Email, and the attached Transaction Log shows "Success" in transmission on 4/12/2013, less than 4 days before the bid, however no quote from Mercado Trucking to MCK Service Inc. is included in the 4 day DBE submission.

Pavex contends that MCK Service Inc. has violated the Subcontractor List required on bid day and within 24 hours of the bid by not listing Mercado Trucking. Additionally, by allowing MCK Service Inc. to list Mercado Trucking on the 4 day CALTRANS BIDDER - DBE - COMMITMENT it allows MCK Service Inc. a second bite at the apple by allowing MCK Service Inc. to make the 3% DBE goal even though there is no evidence showing that a bid was received from Mercado Trucking on bid day. Had MCK Service Inc. intended on utilizing Mercado Trucking on bid day, there is no reason that MCK Service Inc. would not have listed Mercado Trucking on the bid day Subcontractor List and or supplied a quote received on bid day from Mercado Trucking.

Based on the facts presented herein, it is requested that the bid submitted by MCK Service Inc. be found nonresponsive and that the Department uphold and validate Graniterock Company dba Pavex Construction Division bid protest and award the contract to our company which submitted the lowest responsive and responsible bid for Contract 04-3E2904.

Thank you for your attention to this matter and should you need to contact me please find my contact numbers and email address below.

Respectfully,
Graniterock Company dba Pavex Construction Division

Paul L. Cianciarulo
Chief Estimator
Phone 408-574-1423
Fax 408-365-9548
Email pcianciarulo@graniterock.com

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

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

Jun 18 2013 04:53pm

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
918317684021	Normal	18:04:51pm	2'04"	6	OK	

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

EDMUND G. BROWN Jr., Governor

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