

December 30, 2014

Via Fax, Email, Overnight Mail

Gordon N. Ball Inc. Mr. Malcolm Dougherty, Director
General Engineering Contractors California Department of Transportation
1727 30th Street
Sacramento, CA 95816-7005

Reference: Contracts 04-4S0504, 04-2G8604, and 04-1SS024

Tel 925.838.5675

Fax 925.838.5915

Dear Mr. Dougherty:

333 Camille Avenue

Alamo, CA 94507

We are contacting you in another attempt to develop communication between Gordon N. Ball, Inc. (GNB) and the Department relative to a very frustrating ongoing dispute with the Office of Engineer. Our efforts to communicate with the Office of Engineer have been unsuccessful. After recently discussing these issues with District 4 representatives, it was suggested that you do in fact read direct correspondence, and that we may be able to gain progress by contacting you.

GNB was the apparent low bidder on three projects in October, and on all three contracts, the Office of Engineer has determined that the bid submitted was non responsive. While the determinations made by the Office of Engineer are both incorrect and frustrating, it is the process and procedures that were conducted that are both perplexing and perhaps even more frustrating.

Contract 04-4S0504 (Hwy 9), bid on October 8, 2014. During the submittal of this electronic bid, our firm experienced technical internal computer problems with bid submission that caused submittal of the electronic bid to occur at 2:00:14 (14 seconds past 2:00). This time of submission has been confirmed by the Office of Engineer. Our research has determined that in the recent history of bid letting, the deadline for submission of bids has been established by the Department on all bid lettings set at 2:00 to be 2:00:59 (59 seconds past 2:00). In fact, the original bid letting for this contract established the deadline time for electronic submission of this contract to be 2:00:59. However, further research found that when the bid date was changed by Addenda No. 3 dated October 1, 2014, for reasons unknown, the bid deadline time was revised to 2:00:00 on the electronic bidding software utilized by the Department. Notably, this unprecedented revision of the bid deadline time was not advised of or communicated to bidders in the subject addenda. Again, our research has determined that this is the first contract to have a bid submission deadline of 2:00:00 instead of 2:00:59 for not only all electronic bid submission contracts to date, but also for all other bids going back in recent history as far as could be researched. The bid submitted by GNB was the lowest bid submitted.

Mr. Dougherty, while this episode was understandably frustrating, the events that followed were even more so. Correspondence was submitted to the Office of Engineer on October 17, 2014 explaining the situation, requesting that the bid of Gordon N. Ball, Inc. be recognized. This correspondence remained unanswered until after business hours on November 5, 2014, when correspondence was received from the Department via fax transmission (not by email), that stated that our protest and argument was without merit. Because of the late transmission of the correspondence via a highly unusual method (transmission via fax after business hours rather than via email during business hours), it was not until the following day that we could attempt to follow up with the Office of Engineer. During a conversation the following day, we were advised that the contract was actually awarded to the second lowest bid submitted approximately 3 hours prior to the fax transmission of the response letter from the Department to GNB.

When the award of contracts involving millions of dollars are involved, the conduct of the Department ought to ensure that all parties are treated fairly and have the opportunity to respond in a reasonable and timely manner to the Department's decision. We are prepared to "agree to disagree" on matters, however we expect that our long record of professionalism and good conduct with the Department merits the right to expect in return, that we will be treated with respect, especially on a matter that at the minimum, calls for an internal review of the procedures the Department follows relative to revising bid submission deadline times for electronic bid submissions.

The next two contracts have added to our frustration. Contract 04-2G8604 (Hwy 580) was bid on October 16, 2014. GNB was the apparent low bidder on the contract. On October 30, 2014 the Office of Engineer sent a letter that advised that the bid submitted by GNB was non responsive, claiming that the bid had been improperly revised by the 24 hour subcontractor listing submittal. The Office of Engineer analyst asserted that GNB had changed its subcontractor listing information from that submitted at the time of the original bid because the documents submitted with the bid stated that a subcontractor listed to perform \$13,840 of work on the \$1,628,680 bid value would perform a partial scope of all of the erosion control work on the contract, and the 24 hour submittal document indicated that the subcontractor was performing 100% of the work for which it was actually listed. In fact, there was no intent to change subcontractor listing information.

Upon receipt of the analyst's letter, GNB immediately determined that the position taken by the Office of Engineer was in error, because GNB was in receipt of previous written correspondence by the Office of Engineer that confirmed that the procedure being used by GNB under the same exact circumstance was indeed proper and correct. On Contract 04-1SS024 (Hwy 121), bid on July 24, 2013, a protest had been submitted by the second low bidder, and the Office of Engineer determined, via correspondence dated August 20, 2013 (attached), that the procedure, involving identical facts and subcontractor work type, was proper. We immediately wrote to the Office of Engineer on October 31, 2014 referring to the previous ruling and statements of the Department, and requested review and withdrawal of the analyst's assertion that GNB's bid was non-responsive.

Bids for Contract 04-1SS024 (Hwy 13) were opened on October 21, 2014, and again, GNB was the apparent lowest bid submitted. GNB used the same listing method for erosion control work as the

Department had upheld its August 13, 2013 letter, as discussed above. The Department in correspondence dated November 4, 2014, stated that GNB's bid would be rejected as nonresponsive.

Because of the experience with Contract 04-4S0504 (Hwy 9) (the 2:00:59 bid submission deadline), we became very concerned that the Office of Engineer intended to follow the very same process for award of the contract, and that no time would be provided for these issues to be properly discussed, considered, and decided.

We made several attempts to discuss the matter with the Office of Engineer, and received no response from any person with actual authority to represent the Department. During one of our attempts to discuss these issues with the Department, we spoke with the analyst who made the original determination of non-response on Contract 04-2G8604 (Hwy 580). During this conversation, the analyst stated that she was under instructions that if the original bid document and the 24 hour submittal document were different in any manner relative to percentages stated for listed subcontractors, the bid was to be determined non responsive. When we asked if there was ever any consideration of what the information provided by the bidder actually meant, or of previous rulings by the Department specific to how the documents should be completed, the analyst responded that no, the only thing that she could consider was whether there was any difference between the values stated in the original bid document and the 24 hour submittal document. We pointed out that under the method we used to complete our bid forms, there in fact was no conflict between the information in the subcontractor list submitted with our original bid and the additional information provided 24 hours later, so that it was a mistake to assert that there was some kind of conflict or discrepancy that rendered our bids nonresponsive.

After all attempts at communication were unsuccessful, it was apparent that the only means available for GNB to get a fair hearing on these matters was through legal action, which was initiated on November 18, 2014, with the Superior Court granting a temporary restraining order on Contracts 04-2G8604 (Hwy 580) and 04-1SS024 (Hwy 13). The Court's temporary restraining order, continued by the Court at a December 2, 2014 hearing, prevented award of these contracts until further order. This order remains in effect as of the date of this writing.

In additional correspondence dated November 14, 2014, and In its papers filed with the Court, the Office of Engineer attempted to assert as to why GNB's bids should be rejected, taking unprecedented positions based on reasoning that is not stated to be applicable or required by any Department document, is not explained in any Department document, and cannot be explained or justified by any context, practice or procedure that is actually followed in the construction industry or stated Department policy.

To add to the frustration created by this situation, our subsequent research has confirmed that the second low bidder on Contract 04-2G8604 (Hwy 580) followed exactly the same procedure for the listing of the erosion control subcontractor that was used by GNB, yet the Office of Engineer has not rejected that contractor's bid as non-responsive. Effectively, the Office of Engineer is applying a double standard – using one standard for the second low bidder, and a completely different standard, based on new unwritten rules, for GNB.

As you are aware, developing a low bid on the few contracts being let at this time is a hard fought achievement. The economic success of our firm is driven by our ability to make these achievements. Success or failure should be determined based on an established process and a known set of rules. Fairness demands that decisions regarding the award of bids should not be subjective and should be based on a careful consideration of all facts. When situations develop as these have, decisions should be made only after notice and everyone involved has an opportunity for a fair hearing. And while fairness should be the goal and should guide the Department's decision, the economic effect to the taxpayers and the Department should also be considered. It makes no sense to spend hundreds of thousands more in order to enforce secret, unwritten rules that are inconsistent with both common sense and with governing law.

The record will show that GNB is not a litigious contractor; the fact that we seldom are involved in litigation is due to a deliberate effort by management. It was never the intent of GNB for this matter to get to where it is at this time. GNB had no alternative and had good reason to believe that the Office of Engineer was not going to respect the particular facts of these contracts relative to GNB, but rather was going to continue to process contract awards, regardless of the propriety of the procedures being followed or the accuracy of the analyst review process. The policy of the Office of Engineer appears to be to defend junior staff decisions regardless of whether those decisions are right or even make sense for the Department. Only as a last resort, because we could not ensure that we could obtain a fair hearing, did we apply to the Superior Court to review these issues independently.

We are appealing to you for a fair and thorough review and discussion on these contracts. In the legal process, when action is taken, the courts endorse communication between the parties, as a means to obtain an agreement outside the court, to prevent the matter from further burdening the court system. We have been requesting such discussion and we have been told that the Office of Engineer refuses any such communication. This situation is profoundly wrong, as GNB is not being awarded the contracts it deserves, legal and management costs are being incurred by all parties, the Department cannot award the contracts, the highway work in question is not being constructed, and crews are not being put to work. None of this is productive, and none of it is in the best interests of any party.

Additionally, GNB is presently the apparent low bidder on Contract 03-4F3404 (Hwy 80). While we have had communication relative to the determination that two other bidders have been deemed non responsive, we have not received any other communication from the Office of Engineer relative to award of the contract other than letters to extend the award period. We are becoming concerned that the issues presently at hand are causing delay and problems with the processing of award on this contract.

We are at a loss to know what GNB did wrong on the subject bids. To be the low bidder on a very competitive A+B contract and then have these unusual and unfair circumstances intervene to take away that success, feels profoundly unfair. This is especially true because, to be proactive on a time sensitive portion of the work to be done on Contract 04-2G8604 (Hwy 580), GNB made a commitment to purchase over \$170,000 of steel beams so that the special order materials would be available to allow work to commence immediately after contract approval. Now, as a result of the events described, we

not only are not able to put crews to work to build the highway improvement, but also are faced with having to pay for custom steel fabrication that we cannot use.

Mr. Dougherty, GNB did not do anything wrong that led to this situation. We followed the procedures that have previously been stated by the Department to be proper. We are a responsible highway improvement contractor with a proven track record of contract management and performance. It is our desire and intention to continue to be a credit to the Department and the construction industry in California, and we are requesting your assistance to allow us to fulfill that role.

Sincerely,

GORDON N. BALL, INC.

A handwritten signature in black ink, appearing to be 'H. Stober', written over a horizontal line.

Hal Stober
President

RECEIVED

JAN - 2 2015

DIRECTOR'S OFFICE

Referenced Correspondence

Contract 04-4S0504

October 17, 2014

Via Fax & Email

Gordon N. Ball Inc.

General Engineering Contractors

Earl Seaberg, Chief, Office of Contract Awards & Services
John McMillan, Deputy Division Chief
Office Engineer – MSC 43
California Department of Transportation
1727 30th Street
Sacramento, CA 95816-7005

Tel 925.838.5675

Reference: Contract No. 04-4S0504
04-SCL-09-4.2

Fax 925.838.5915

Bid Date: October 8, 2014

Subject: Protest all Bidders – Electronic Bidding System Failure

Gentlemen:

333 Camille Avenue

Alamo, CA 94507

Gordon N. Ball, Inc. hereby submits its protest as to all bids submitted as a result of a failure of the Electronic Bidding Bidders' Exchange website. We request that all submitted bids be rejected, and the project be re-bid, so that all responsive bids can be properly accepted. Alternatively, we request that the Department accept the bid that was submitted by Gordon N. Ball, Inc. but improperly not recognized by the Bidders' Exchange Website. The bid submitted by Gordon N. Ball, Inc. is the lowest responsive bid submitted.

The bid documents state:

The Department will receive bids until 2:00 p.m. on the bid open date via Bid Express web site. Bids received after this time will not be accepted. For more information refer to the Electronic Bidding Guide at the Bidder's Exchange web site.

The submission of the electronic bid for this contract was initiated by Gordon N. Ball, Inc. at approximately 13:54 hrs. on October 8, 2014. At that time, the Bidder's Exchange Website would not properly respond to our repeated attempts to process. At 2:00 p.m., and more specifically, at 14:00:28 hrs, Gordon N. Ball, Inc. finally received confirmation that the information was processed by the Bidders' Exchange Website; it was not yet 2:01 p.m.

Following the inability of the website to receive Gordon N. Ball, Inc.'s timely submitted bid, the website immediately transmitted "Return Code 26," stating that "The cutoff time for this proposal has passed." In fact, that was not the case. As documented by the log that is available for independent review by the Department, the subject electronic bid was in fact submitted and acknowledged as received, prior to the stated bid closing time of 14:00:59, and thereby the return code transmitted was in error.

The time is "2:00 p.m." until it is 2:01 p.m. The timing of Gordon N. Ball's submission is in conformance with the bid submission requirements of the contract.

Even if Gordon N. Ball, Inc.'s bid were construed as late by seconds, which it was not, courts have repeatedly upheld public agencies' ability to award contracts to bidders whose bids were received later than the published bid time. Gostovich v. West Richland, 75 Wash.2d 583, 452 P.2d 737, 740 (1969); Townsend v. McCall, 262 Ala. 554, 80 So.2d 262 (1955); Hewitt Contracting Co. v. Melbourne Regional Airport Auth., 528 So.2d 122 (Fla Ct. App. 1998); William Young & Co. v. West Orange Redevelopment Agency, 125 N.J. Super. 440, 311 A.2d 390 (App. 1973); see also 10 McQuillen, Municipal Corporations, § 29.70 (3d ed. 1990).

For example, in a case where bids were to be opened at 2:00 p.m., a contractor, Cleveland Wrecking, telephoned the agency to advise that its representative would be a few minutes late because of an airline delay. The agency waited for Cleveland's representative, who arrived at 2:02 p.m. The Court held that the agency acted properly in awarding the contract to Cleveland, reasoning:

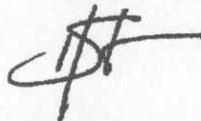
Under the facts here, it cannot be argued seriously that the bidders other than Cleveland were disadvantaged competitively by waiting for possibly seven minutes. There is not the slightest suggestion of fraud and collusion ... Under the circumstances presented here we view the delay as a minor irregularity which was properly waived by the Agency under its inherent discretionary power ancillary to its duty to secure, through competitive bidding, the lowest responsible offer.

William Young & Co. v. West Orange Redevelopment Agency, 125 N.J. Super. 440, 444, 311 A.2d 390, 392 (App. 1973).

Thus, if Gordon N. Ball, Inc.'s bid were deemed to have been received after 2:00 p.m., which was certainly not the case, even then the project should be awarded to Gordon N. Ball, Inc. Any purported untimeliness was not of Gordon N. Ball, Inc. making. The owner's agent apparently caused any delay, by maintaining a website which could not handle the heavy flow on bid day. Any protest by a contractor submitting a higher bid would be groundless.

We would appreciate your advising us by the close of business on Wednesday, October 22, 2014, whether the contract will be awarded to Gordon N. Ball, Inc. In the event that the contract is to be awarded to another bidder, we would request a hearing at which we could make a meaningful presentation concerning the facts related to this bid.

GORDON N. BALL, INC.



Hal Stober
President

Hal Stober

From: Samir Ashoo
Sent: Wednesday, October 15, 2014 4:03 PM
To: Hal Stober
Cc: Tristen Davis
Subject: Bid 04-4S0504 Report
Attachments: Log.txt; Response.txt

Hal,

Per your request, I have prepared the following report regarding the bid submission on October, 8th 2014.

I have reviewed the submission logs from the BidEx software currently installed on the PC named (GNB-EBID) at Gordon N. Ball. This is the PC used to submit ebids to CalTrans. Please note the following excerpt from the log from that PC:

```
Log Created at [14/10/08 14:00:14]
... lines from log removed ...
[14/10/08 14:00:27] Debug: Post:
pszPostFile=[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\Post.txt]
pszResponseFile=[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\Respo
nse.txt]
[14/10/08 14:00:27] Debug: Post: User agent set to [User-Agent: Expedite
Version 5.11a]
[14/10/08 14:00:28] Debug: PostBid: Post returned returncode=26 [The
cutoff time for this proposal has passed]
```

From the log file above you can see that the bid submission process was started at [14/10/08 14:00:14] and completed by [14/10/08 14:00:28].

After speaking to GNB staff regarding the in person bidding process, when bid's were presented, CalTrans accepted bid until 2:00:59. The person at the desk continued accepting bids until the clock was at 2:01:00.

The Specification Book reads as follows: "The Department will receive bids until 2:00 p.m.". It is my contention that this spec is vague and not concise enough for the bidding technology being used today. The specification does not specify granularity of seconds.

Therefore based on the following facts:

- Historic precedents observed when submitting in person
- The spec book does not specify a granularity in seconds for the submission time
- Your submission was completed by 2 : 00 : 28

It is my contention that you bid should have been accepted by the BidEx servers.

--
Samir E. Ashoo

A & B Computer Services
PO Box 5813
Concord, CA 94524

<http://www.AandBComputers.com>

Phone: +1 (925) 250-5165
Fax: +1 (925) 524-0244

Response.txt

[General]
returncode = 26
message = The cutoff time for this proposal has passed
datetime = EST
errdetail =

[Message Header]

[Message Body]

BID SUBMISSION RECEIPT

Vendor Name = Gordon N. Ball, Inc.
Vendor Addr1 = 333 Camille Avenue
Vendor Addr2 =
Vendor City = Alamo
Vendor State = CA
Vendor Zip = 94507
Vendor Phone = 9258385675
Vendor ID = VC0000101123

Digital ID = Hal_stober_vc0000101123
FingerPrint = 0e d7 7d e2 c1 6a 4a 05 e2 d8 45 9b 4e d8 a6 f8 e0 86 7d 11
Agency = CALTRANS
Letting ID = 04-4S0504c
Letting Date =
CallOrder = 1
Amendments = 3
Proposal ID = 04-4S0504
Bid Version = 5.11a
Protocol Ver = 2.00
Submission Time = 10/08/2014 05:00:28 PM EST
Bid MD5 = 82 59 21 31 7c f9 33 f5 f0 46 1f d2 59 96 38 c1

Your encrypted submission relating to Call Order 1 dated 10/08/2014 was received at the Bid Submission time indicated above. Receipt of this submission does not imply that it complies with the substantive or procedural requirements of the state of CALTRANS. The form and sufficiency of your submission will be determined by the CALTRANS Department of Transportation upon the opening of bids.

This is your bid submission receipt. This bid submission replaces any prior submissions for this proposal.

Bid Receipt Ver. 4.0a

Log.txt

Log Created at [14/10/08 14:00:14]
[14/10/08 14:00:14] Message: URL List cleared
[14/10/08 14:00:14] Message: URL added to list:
[http://www.bidx.com/cgi-bin/expedite]
[14/10/08 14:00:27] Debug: EncryptAndSignProposal: pszID=[Hal_Stober_VC0000101123],
pszPWD=[xxxx] pProp=[002CE7D8]
[14/10/08 14:00:27] Message: Encrypt And Signing Proposal: Contid=[04-4S0504]
[14/10/08 14:00:27] Debug: EncryptAndSignProposal:
szProposalSpec=[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\04-4S0504.ebs]
szEncryptSpec=[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\04-4S0504.enc_not
_signed]
szSignSpec=[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\04-4S0504.enc]
[14/10/08 14:00:27] Message: Proposal saved to
[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\04-4S0504.ebs]
[14/10/08 14:00:27] Message: Proposal encrypted to
[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\04-4S0504.enc_not_signed]
[14/10/08 14:00:27] Message: Proposal signed to
[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\04-4S0504.enc]
[14/10/08 14:00:27] Debug: VerifyBidPackage: pProp=[002CE7D8]
pszEncryptedSignedFile=[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\04-4S050
4.enc], pszID=[Hal_Stober_VC0000101123], pszPWD=[xxxx]
[14/10/08 14:00:27] Message: Verifying Bid Package for Proposal 04-4S0504
[14/10/08 14:00:27] Debug: Bid submit Package Test Read Status = [0]
[14/10/08 14:00:27] Debug: SetKey: pszSignKeyID=[Hal_Stober_VC0000101123]
pszSignKeyPWD=[xxxx]
[14/10/08 14:00:27] Debug: PostBid: pProp=[002CE7D8]
pszEncryptedSignedFile=[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\04-4S050
4.enc] at wed Oct 08 14:00:27 2014
[14/10/08 14:00:27] Message: Posting Bid: Contid=[04-4S0504]
[14/10/08 14:00:27] Debug: BuildPostBidParamFile: pProp=[002CE7D8],
pszParmFile=[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\Parameters.txt]
pszEncryptedSignedFile=[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\04-4S050
4.enc] pszBidWDCalls=[]
[14/10/08 14:00:27] Debug: SignFile:
pszDestFile=[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\Parameters.txt]
pszSrcFile=[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\UnsignedParameters.t
xt]
[14/10/08 14:00:27] Debug: BuildPostFile:
pszPostFile=[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\Post.txt]
pszParmFile=[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\Parameters.txt]
pszDataFile=[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\04-4S0504.enc]
[14/10/08 14:00:27] Debug: SpoolFile: pFile=[06AFFDD0]
pszInFile=[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\Parameters.txt]
pszSectionName=[ParmFile]
[14/10/08 14:00:27] Message: Spooling File
[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\Parameters.txt] as field name
[ParmFile]
[14/10/08 14:00:27] Debug: SpoolFile: pFile=[06AFFDD0]
pszInFile=[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\04-4S0504.enc]
pszSectionName=[DataFile]
[14/10/08 14:00:27] Message: Spooling File
[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\04-4S0504.enc] as field name
[DataFile]
[14/10/08 14:00:27] Debug: Post:
pszPostFile=[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\Post.txt]
pszResponseFile=[C:\ProgramData\ExpediteLogs\SubmitBid_141008_140014\Response.txt]
[14/10/08 14:00:27] Debug: Post: User agent set to [User-Agent: Expedite Version
5.11a]
[14/10/08 14:00:28] Debug: PostBid: Post returned returncode=26 [The cutoff time for
this proposal has passed]

Tristen Davis

From: Tristen Davis
Sent: Wednesday, October 15, 2014 1:58 PM
To: Tristen Davis; Hal Stober
Subject: Screen Shot of Bid Express Owner Screen

Zoom Meeting ID: 116-830-506

CALTRANS Letting of October 15, 2014 - Windows Internet Explorer

https://bidx.com/cal/letting/lettingid=01-080804

File Edit View Favorites Tools Help

Favorites CALTRANS Letting of October 15, 2014

Bid Express
Secure Internet Bidding

CALTRANS **Letting** Search Advantage Bid Tab Analysis Small Business Network

California Department of Transportation

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◀ **Letting of October 15, 2014** ▶

Letting ID: 01-080804
Opening Time: 02:01:00 PM PDT
Cut-Off Time: 02:01:00 PM PDT

Proposals	Call Order	Days	Amendments	Plan Sh
01-080804	1	46	1	

CONSTRUCTION ON STATE HIGHWAY IN DEL NORTE COUNTY NEAR KLAMATH FROM 0.4 MILES NORTH OF KLAMATH RIVER BRIDGE TO HIGH PRA on Route 101

(1 Active Proposal)

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Audio Settings Invite Participants (30)

Tristen Davis

From: Tristen Davis
Sent: Thursday, October 16, 2014 1:55 PM
To: Tristen Davis

Zoom Meeting ID: 116-890-506

CALTRANS Letting of October 16, 2014 - Windows Internet Explorer
https://bidx.com/ca/letting/lettingId=02-4G00U4

Favorites | CALTRANS Letting of October 16, 2014

Bid Express
CALTRANS Search Advantage Bid Tab Analysis Small Business Network
California Department of Transportation
List of Lettings > October 16, 2014

Manage this Letting.

◀ Letting of October 16, 2014 ▶

Letting ID: 02-4G00U4
Opening Time: 02:01:00 PM PDT
Cut-Off Time: 02:01:00 PM PDT

Proposal	Call Order	Items	Amendments	Plan Set
02-4G00U4	1	35	0	

CONSTRUCTION ON STATE HIGHWAY IN SISKIYOU COUNTY NEAR WEED FROM ANGEL VALLEY ROAD TO MAPLE AVENUE In District 02 on Route 5

(1 Active Proposal)

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Audio Settings Invite Participants (28)

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER
1727 30th STREET, MS-43
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6299
FAX (916) 227-6282
www.dot.ca.gov/hq/esc/oe



Serious drought.
Help save water!!

November 5, 2014

Facsimile: (925) 838-5915

Hal Stober, President
Gordon N. Ball, Inc.
333 Camille Avenue
Alamo, CA 94507

04-4S0504
04-SCI-09-4.2
B.O 10/8/2014

Dear Mr. Stober:

The Department of Transportation (Caltrans) received a letter dated October 31, 2014, from Gordon N. Ball, Inc. (Gordon Ball) for Contract No. 04-4S0504 on October 8, 2014. The protest alleges that the bid submittal by Gordon Ball was not recognized by the Bidder's Exchange website and should reject all bids and re-bid the project.

Caltrans reviewed the Notice to Bidders and Special Provision for the project 04-4S0504.

Notice to Bidders:

The Department will receive bids until 2:00 p.m. on the bid open date via Bid Express web site. Bids received after this time will not be accepted. For more information refer to the Electronic Bidding Guide at the Bidder's Exchange web site.

The Department will open and publicly read the bids at 1727 30th Street, Bidders' Exchange, MS 26, Sacramento, CA 95816 immediately after the specified closing time.

Caltrans determined that Caltrans followed the proper procedures to ensure all bidders have had the same information available to successfully submit a bid. Records show that Gordon Ball initiated bid submittal at 2:00:14 p.m., on October 8, 2014, for project 04-4S0504 and was completed at 2:00:28 p.m. We have attached the screen shot of Bid Express webpage showing the bid opening and cut-off time showing 2:00:00 p.m., for 04-4S0504.

Caltrans finds that the protest from Gordon Ball will have no bearing on the award of this contract. Caltrans will proceed to award this contract to the lowest responsive and responsible bidder.

Based on the above, Caltrans will proceed to award the contract to the lowest responsible bidder.

If you have any questions, please contact Irene Beckham, Contract Award Analyst, at (916) 227-6284.

Sincerely,


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

Attachment

Screen shot: 04-4S0504, October 8, 2014.

The screenshot shows a web browser window displaying the Bid Express website. The browser's address bar shows the URL "http://www.bidexpress.com/". The website header includes the Bid Express logo and navigation links such as "Home", "About Us", "Contact Us", and "Help". The main content area features a prominent heading: "← Bidding of October 8, 2014 →". Below this heading, there is a table with the following information:

Lotting ID#	04-4S0504
Opening Time	02:00:00 PM PDT
Day-Off Times	02:00:00 PM PDT

To the right of this table, there is a box titled "The following has enabled:" which lists various project categories: "Appropriation Title", "Old Summary", "Caltrans Electrical Bidding", "Caltrans Electrical Bidding", "Caltrans Electrical Bidding", "Caltrans Electrical Bidding", and "Caltrans Electrical projects". Below the table, there is a section for "CONSTRUCTION ON STATE HIGHWAY IN SANTA CLARA COUNTY NEAR SANJOSE AT 0.8 MILE WEST OF SANDOWN ROAD, In District 04 on Route 09". At the bottom of the page, there is a footer with the text "Copyright © 2014, Info Tech, Inc. All rights reserved." and the Bid Express logo.

Referenced Correspondence

Contract 04-2G8604

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER

1727 30th STREET, MS-43

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6299

FAX (916) 227-6282

www.dot.ca.gov/hq/esc/os

*Serious drought.
Help save water!!*

October 30, 2014

Facsimile: (925) 838-5915

Hal Stober, President
Gordon N. Ball, Inc.
333 Camille Avenue
Alamo, CA 94507

04-2G8604
04-Ala-580-R33.4
B.O 10/16/2014

Dear Mr. Stober:

The Department of Transportation (Caltrans) received a bid submitted by Gordon N. Ball, Inc. (Gordon Ball) for Contract No. 04-2G8604 on October 16, 2014. By this letter, Caltrans notifies Gordon Ball that its bid is nonresponsive.

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."

On the Subcontractor List form submitted with the bid, Gordon Ball identified Selby's Soil Erosion Control (Selby) to perform work listed as partial. However, on the 24-hour Subcontractor List form, Gordon Ball changed the percentage of work to be performed from partial to 100 percent. The change from partial to 100 percent expands the scope of work to be performed by Selby, and constitutes an improper change to the Subcontractor's List form.

Based on the above, Caltrans will proceed to award the contract to the lowest responsible bidder.

Your attention is directed to Section 3-1.04 of the Amendments to the 2010 Standard Specifications. Caltrans is not obligated to offer an extension of the award period for a nonresponsive bid. Should you wish to extend your bid while resolving a nonresponsive finding, you must send your request to the Office Engineer no later than 4:00 p.m., two business days prior to the expiration of your bid.

If you have any questions, please contact Irene Beckham, Contract Award Analyst, at (916) 227-6284.

Sincerely,

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

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



October 31, 2014

Via Fax, Email & Overnight Mail

Gordon N. Ball Inc.

General Engineering Contractors

Tel 925.838.5675

Fax 925.838.5915

333 Camille Avenue

Alamo, CA 94507

Earl Seaberg, Chief, Office of Contract Awards & Services
John McMillan, Deputy Division Chief
Office Engineer – MSC 43
California Department of Transportation
1727 30th Street
Sacramento, CA 95816-7005

Reference: Contract No. 04-2G8604
04-Ala-580-R33.4
Bid Date: October 16, 2014

Subject: Response to Non-Responsive Finding October 30, 2014

Reference is made to correspondence from the Department dated October 30, 2014 that states that the Department has determined the bid of Gordon N. Ball, Inc. to be nonresponsive on Contract 04-2G8604 that bid on October 16, 2014.

We hereby request to extend our bid while the Department resolves this matter and reviews the contents of this correspondence, as we do not believe proper analysis was performed on the subject determination.

The Department is in error on the determination stated in the subject correspondence. All documents submitted with the bid and post bid are consistent and in complete adherence with Department rulings and determinations.

Contract 04-2G8604 included a total of eleven (11) erosion control bid items in the bid schedule. Bid Items 12-21 and 71 are all erosion control bid items. The documents submitted by Gordon N. Ball, Inc. clearly and consistently state that Selby's was listed for a partial scope of the erosion control on the project. Selby's was listed to perform Bid Items 14 and 71 only, Selby's was not listed to perform the other erosion control on the project, Bid Items 12, 13, and 15-21. Thereby, Selby's is performing a partial scope of the erosion control to be performed on the project. Additionally, the documents submitted by Gordon N. Ball, Inc. clearly and consistently state that Selby's is performing 100% of the work that it was listed for, Bid Items 14 and 71.

Enclosed please find correspondence from the Department dated August 20, 2013 regarding Contract 04-2A1104 that states that, in response to a frivolous protest by another bidder, the Department determined the bid of Gordon N. Ball, Inc. to be responsive and proper for the same reasons as stated above, for the exact same situation.

It must be understood that Gordon N. Ball, Inc. has been determined to be non-responsive on over \$10 million of contracts in the last three (3) years as a result of protests by high bidders relative to subcontractor bid and post bid documents. The determinations that

were made by the Department were based on subjective information, and were determinations that enforced a completely different method of completing bid documents than this author had successfully completed with the Department for over twenty (20) consecutive years. Based on those extremely unfortunate rulings, Gordon N. Ball, Inc. is attempting to eliminate each and every possible means for which a high bidder can protest a low bid submitted by Gordon N. Ball, Inc. The \$10 million of lost revenue that resulted has caused significant financial distress to our firm, we simply cannot afford to allow the possibility of a recurrence of those unfortunate rulings. All we are attempting to do is protect our livelihood from the protests of high bidders, and comply with the information requirements that are stated in the bid documents.

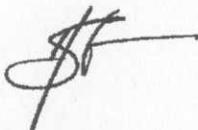
Our analysis indicates that if our bid documents for Contract 04-2G8604 did not clearly state that Selby's was performing only a partial scope of the erosion control work to be performed on the project, then there would be exposure to a high bidder protesting our bid due to an alleged difference between the bid document and the 24 hour subcontractor submittal, alleging Selby's was listed for erosion control, but that the bid items listed for Selby's did not list all of the erosion control bid items on the project.

We request reconsideration of your determination on this matter, and request that you review the information submitted, the entire list of bid items, the reasoning made, the past ruling of the Department directly involving our firm on an identical matter, and the intent of the bid documents. The bid of Gordon N. Ball, Inc. did not change the scope of Selby's from partial to 100% in any manner. That conclusion is in error. The bid of Gordon N. Ball, Inc. clearly and consistently stated to all interested parties the exact scope that the bid listed Selby's to do relative to the entire scope of work to be performed on the project.

We believe that with careful examination you will find that the Department has a low bidder who has taken careful and deliberate actions to insure that the bid submitted is clearer and more deliberate in its statements than any other bidder, and is in fact the lowest and most responsible firm that submitted a bid to the Department.

If the Department would like further information or clarity on this matter, we are available for a personal hearing at a time that is convenient to the Department. We would welcome further discussion on this very frustrating element of the bid submittal process that has evolved over the last three (3) years with the Department.

GORDON N. BALL, INC.



Hal Stober
President

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

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

Aug 20 2013 01:09pm

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
917075851601	Normal	20:01:08pm	1'10"	4	* O K	

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

BERNARD G. BENTON JR., Governor

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



*Put your power
to 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 Nicola Butler, Contract Awards Analyst, at (916) 227-6292.

Sincerely,


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

Attachment

Tristen Davis

From: RapidFAX Email to Fax <reports@rapidfax.com>
Sent: Friday, October 31, 2014 8:52 AM
To: Tristen Davis
Subject: Fax Confirmation -OK

Your fax to an unknown recipient at fax number 19162276282 succeeded.

FSID: 72551838

Attempts made: 1
Pages delivered: 4
Minutes spent delivering this fax : 1.8
The baud rate was: 31200

The following are the attempts made and the result that occurred:
10/31/2014 - 08:49:38 - 0(Success)

Documents being delivered:
1 Response to Caltrans 103114.pdf

DEPARTMENT OF TRANSPORTATION
 DIVISION OF ENGINEERING SERVICES
 OFFICE ENGINEER
 1727 30th STREET, MS-43
 SACRAMENTO, CA 95816-8041
 PHONE (916) 227-6299
 FAX (916) 227-6282
 www.dot.ca.gov/hq/esc/oe



Serious drought.
 Help save water!!

November 14, 2014

Facsimile: (925) 838-5915

Hal Stober, President
 Gordon N. Ball, Inc.
 333 Camille Avenue
 Alamo, CA 94507

04-2G8604
 04-Ala-580-R33.4
 B.O 10/16/2014

Dear Mr. Stober:

The Department of Transportation (Caltrans) received the attached letter dated November 4, 2014, from Gordon N. Ball, Inc. (Gordon Ball) in response to a nonresponsive bid determination on the above contract. Gordon Ball requested Caltrans reconsider that determination. Based on that request, Caltrans re-examined Gordon Ball's bid. During this examination, Caltrans found additional material errors in the Subcontractor List/24-Hour Submittal as well as the DBE Commitment Form. These errors further support a finding that Gordon Ball's bid is nonresponsive. The errors are as follows:

Caltrans' Findings:

With Bid: Subcontractor/ Description of Work	24 Hour Subcontractor List submittal w/Bid Item(s) number and %.
Chrip • Striping.	Chrip Bid Item 1(P) 50% (note: this is the lead compliance plan and is not considered subcontracted work, but is included in the total of the amount provided to the subcontractor) Bid Items #5-#7, #23, #29-#30, #104-#106 – 100% Bid Item #112(P) - 5% (note: this item is mobilization)
Bid Item #7, Channelizer (Surface Mounted) - 100%, was not described in the initial "Description of Portion on Work", submitted at time of Bid Opening, but added on the 24 Hour Subcontractor List thus expanding the work to be performed by Chrip. The addition of Bid Item #7 is inconsistent with the original Subcontractor List, and is a material error; therefore, renders the bid nonresponsive.	
Selby's Soil Erosion Control (Selby's) • Erosion Control (Partial)	Selby's Bid Item #14, Temporary Hydraulic Mulch (Water pollution control) - 100% Bid Item #71, Fiber Rolls, (Erosion control) - 100% Bid Item #71 was the sole erosion control item on the project.
Bid Item #14, Temporary Hydraulic Mulch (Water pollution control) - 100% is not part of Erosion Control as described in the initial "Description of Portion of Work" but is in fact part of Water Pollution Control. Since Selby's was only to do work described as Erosion Control (Partial) as stated on the form submitted at time of Bid Opening, the addition of Bid Item #14 relating to Water Pollution Control on the 24 Hour Subcontractor List expanded the work to be performed by Selby's. The addition of Bid Item #14 is inconsistent with the original	

Subcontractor List, and is a material error and therefore renders the bid nonresponsive. Bid Item #71 is the only Erosion Control Bid Item for the Project. At the time of Bid Opening the work to be performed by Selby's for Erosion Control is listed as (Partial), however on the 24 Hour Submittal Bid Item #71 is listed as 100%. Since Bid Item #71 is the only Bid Item relating to Erosion Control for the Project, increasing the percentage of work to 100% is inconsistent with the original Subcontractor List, and is a material error and therefore renders the bid nonresponsive.

JJ Nguyen
• Landscaping

JJ Nguyen
Bid Items #44-#70
Bid Item #110 - 100%
Bid Item #112(p) - 3% (note: this item is mobilization)

Bid Item #28, Remove Irrigation Facility, was not listed on the Subcontractor List, but listed on the DBE Commitment form. The DBE Commitment form instructions states: "If applicable under Pub Cont Code § 4100 et. sec., the names of the 1st tier DBE subcontractors and items of work must be consistent with the Subcontractor List". The omission of Bid Item #28, is inconsistent with the original Subcontractor List, is a material error and therefore renders the bid nonresponsive.

"Public Contract Code 4104 (a) (1) The name and the location of the place of business of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California ..."

Based on the above, Caltrans upholds its determination that Gordon Ball's bid is nonresponsive and will proceed to award this contract to the lowest responsible bidder, provided that all requirements have been met.

If you have any questions, please contact Irene Beckham, Contract Award Analyst, at (916) 227-6284.

Sincerely,



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

Referenced Correspondence

Contract 04-1SS024

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER

1727 30th STREET, MS-43

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6299

FAX (916) 227-6282

www.dot.ca.gov/hq/esc/oc

*Serious drought.
Help save water!!*

November 4, 2014

Facsimile: (925) 838-5915

Hal Stober, President
Gordon N. Ball, Inc.
333 Camille Avenue
Alamo, CA 94507

04-1SS024
04-Ala-13-8.3
B.O 10/21/2014

Dear Mr. Stober:

The Department of Transportation (Caltrans) received a bid submitted by Gordon N. Ball, Inc. (Gordon Ball) for Contract No. 04-1SS024 on October 21, 2014. By this letter, Caltrans notifies Gordon Ball that its bid is nonresponsive.

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."

On the Subcontractor List form submitted with the bid, Gordon Ball identified RMT Landscape (RMT) to perform work listed as partial. However, on the 24-hour Subcontractor List form, Gordon Ball identified the percentage of work to be performed as 100 percent. The change from partial to 100 percent expands the scope of work to be performed by RTM, and constitutes an improper change to the Subcontractor's List form.

Based on the above, Caltrans will proceed to award the contract to the lowest responsible bidder.

Your attention is directed to Section 3-1.04 of the Amendments to the 2010 Standard Specifications. Caltrans is not obligated to offer an extension of the award period for a nonresponsive bid. Should you wish to extend your bid while resolving a nonresponsive finding, you must send your request to the Office Engineer no later than 4:00 p.m., two business days prior to the expiration of your bid.

If you have any questions, please contact Irene Beckham, Contract Award Analyst, at (916) 227-6284.

Sincerely,


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

Caltrans Contract No. 04-188024
 Bid Date: 10/21/14
 Page 2 of 3

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
SUBCONTRACTOR LIST
 DES-OE-0102.2 (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 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 Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
RMT LANDSCAPE OAKLAND, CA LIC NO. 372869	69-72	100%	EROSION CONTROL (PARTIAL)
BALDRY PENN GROVE, CA LIC NO. 711367	82 (P)	47%	PILE (PARTIAL)
AVAR FREMONT, CA LIC NO. 906815	78 79	100% 100%	TIEBACKS & SOIL NAIL
AVAR FREMONT, CA LIC NO. 906815	92	100%	SHOTCRETE
RMT LANDSCAPE OAKLAND, CA LIC NO. 372869	48 51-58 62-66 116-125	100% 100% 100% 100%	LANDSCAPE
CIRIMELE ELECTRIC WORKS RICHMOND, CA LIC NO. 583023	110-112	100%	ELECTRICAL
JEFFCO VALLEJO, CA LIC NO. 364702	94 (P)	15%	FIELD PAINTING

November 4, 2014

Via Fax, Email & Overnight Mail

Gordon N. Ball Inc.

General Engineering Contractors

Tel 925.838.5675

Fax 925.838.5915

333 Camille Avenue

Alamo, CA 94507

Earl Seaberg, Chief, Office of Contract Awards & Services
John McMillan, Deputy Division Chief
Office Engineer – MSC 43
California Department of Transportation
1727 30th Street
Sacramento, CA 95816-7005

Reference: Contract No. 04-1SS024
04-Ala-13-8.3
Bid Date: October 21, 2014

Subject: Response to Non-Responsive Finding November 4, 2014

Reference is made to correspondence from the Department dated November 04, 2014 that states that the Department has determined the bid of Gordon N. Ball, Inc. to be nonresponsive on Contract 04-1SS024 that bid on October 21, 2014.

We hereby request to extend our bid while the Department resolves this matter and reviews the contents of this correspondence, as we do not believe proper analysis was performed on the subject determination.

The Department is in error on the determination stated in the subject correspondence. All documents submitted with the bid and post bid are consistent and in complete adherence with Department rulings and determinations.

Contract 04-1SS024 included a total of eighteen (18) erosion control bid items in the bid schedule. Bid Items 10-23 and 69-72 are all erosion control bid items. The documents submitted by Gordon N. Ball, Inc. clearly and consistently state that RMT was listed for a partial scope of the erosion control on the project. RMT's listed scope for erosion control is for Bid Items 69-72 only, RMT was not listed to perform the other erosion control on the project, Bid Items 10-23. Thereby, RMT is performing a partial scope of the erosion control to be performed on the project. Additionally, the documents submitted by Gordon N. Ball, Inc. clearly and consistently state that RMT is performing 100% of the erosion control work that it was listed for, Bid Items 69-72.

Enclosed please find correspondence from the Department dated August 20, 2013 regarding Contract 04-2A1104 that states that, in response to a frivolous protest by another bidder, the Department determined the bid of Gordon N. Ball, Inc. to be responsive and proper for the same reasons as stated above, for the exact same situation.

It must be understood that Gordon N. Ball, Inc. has been determined to be non-responsive on over \$10 million of contracts in the last three (3) years as a result of protests by high bidders relative to subcontractor bid and post bid documents. The determinations that

were made by the Department were based on subjective information, and were determinations that enforced a completely different method of completing bid documents than this author had successfully completed with the Department for over twenty (20) consecutive years. Based on those extremely unfortunate rulings, Gordon N. Ball, Inc. is attempting to eliminate each and every possible means for which a high bidder can protest a low bid submitted by Gordon N. Ball, Inc. The \$10 million of lost revenue that resulted has caused significant financial distress to our firm, we simply cannot afford to allow the possibility of a recurrence of those unfortunate rulings. All we are attempting to do is protect our livelihood from the protests of high bidders, and comply with the information requirements that are stated in the bid documents.

Our analysis indicates that if our bid documents for Contract 04-1SS024 did not clearly state that RMT was performing only a partial scope of the erosion control work to be performed on the project, then there would be exposure to a high bidder protesting our bid due to an alleged difference between the bid document and the 24 hour subcontractor submittal, alleging RMT was listed for erosion control, but that the bid items listed for RMT for the erosion control scope did not list all of the erosion control bid items on the project.

We request reconsideration of your determination on this matter, and request that you review the information submitted, the entire list of bid items, the reasoning made, the past ruling of the Department directly involving our firm on an identical matter, and the intent of the bid documents. The bid of Gordon N. Ball, Inc. did not change the scope of RMT from partial to 100% in any manner. That conclusion is in error. The bid of Gordon N. Ball, Inc. clearly and consistently stated to all interested parties the exact scope that the bid listed RMT to do relative to the erosion control scope of work to be performed on the project.

We believe that with careful examination you will find that the Department has a low bidder who has taken careful and deliberate actions to insure that the bid submitted is clearer and more deliberate in its statements than any other bidder, and is in fact the lowest and most responsible firm that submitted a bid to the Department.

If the Department would like further information or clarity on this matter, we are available for a personal hearing at a time that is convenient to the Department. We would welcome further discussion on this very frustrating element of the bid submittal process that has evolved over the last three (3) years with the Department.

GORDON N. BALL, INC.



Hal Stober
President

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

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

Aug 20 2013 01:09pm

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
917075851601	Normal	20:01:08pm	1'10"	4	* D K	

STATE OF CALIFORNIA - BUSINESS, TRANSPORTATION AND HOUSING AGENCY

FORWARD G. REEDER, Director

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



*This year saved
20 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-Sep-12 12:20.4 PM
B.C. 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,


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

Attachment

DEPARTMENT OF TRANSPORTATION
 DIVISION OF ENGINEERING SERVICES
 OFFICE ENGINEER
 1727 30th STREET, MS-43
 SACRAMENTO, CA 95816-8041
 PHONE (916) 227-6299
 FAX (916) 227-6282
 www.dot.ca.gov/hq/esc/oe



Serious drought.
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November 14, 2014

Facsimile: (925) 838-5915

Hal Stober, President
 Gordon N. Ball, Inc.
 333 Camille Avenue
 Alamo, CA 94507

04-1SS024
 04-Ala-13-8.3
 B.O 10/21/2014

Dear Mr. Stober:

The Department of Transportation (Caltrans) received a letter dated November 4, 2014, from Gordon N. Ball, Inc. (Gordon Ball) in response to a nonresponsive bid determination on the above contract. Gordon Ball requested Caltrans reconsider that determination. Based on that request, Caltrans re-examined Gordon Ball's bid. During this examination, Caltrans found additional material errors in the Subcontractor List/24-Hour Submittal Form. These errors further support a finding that Gordon Ball's bid is nonresponsive. The errors are as follows:

Caltrans's findings:

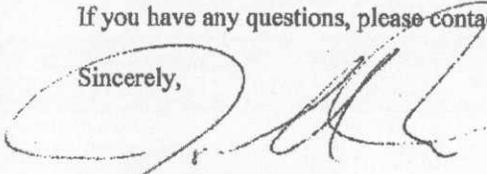
With Bid: Subcontractor/ Description of Work	24 Hour Subcontractor List submittal w/Bid Item(s) number and %.
Bayside Stripe & Seal (Bayside) • Striping.	Bayside Bid Items #3-#5 – 100% Bid Items #25, #28, #29 – 100% Bid Items #106-109 – 100% Bid Item #127 – 34% Bid Item #128(P) 1.7%
Bid Item #4, Channelizer (Surface Mounted), Bid Item #5, Temporary Pavement Marker, and Bid Item #29, Remove Pavement Marker are all items that are not considered Striping items and were therefore not included in the initial "Description of Portion of Work" submitted at time of Bid Opening as Striping. These items were added on the 24 Hour Subcontractor List thus expanding the work to be performed by Bayside. The addition of Bid Items #4, #5, and #29 on the 24 Hour Subcontractor List is inconsistent with the original Subcontractor List, is a material error, and renders the bid nonresponsive.	
RMT Landscape (RMT) • Erosion Control (Partial)	RMT Bid Items #69-#72 - 100%
The change from partial to 100 % expands the scope of work to be performed by RMT, is inconsistent with the original Subcontractor List, is a material error and renders the bid nonresponsive. Gordon Ball alleges that there are other Erosion Control items that are not included in the work for RMT landscape. Upon further examination of the Bid Item list, it is Caltrans' response that Bid Items #69-#72 are part of Erosion Control as described in the initial "Description of Portion of Work" but Bid Items #10-#23 are in fact part of Water Pollution Control not Erosion Control.	

Hal Stober
Page Two
November 14, 2014

Based on the above, Caltrans will proceed to award this contract to the lowest responsible bidder, provided that all requirements have been met.

If you have any questions, please contact Irene Beckham, Contract Award Analyst, at (916) 227-6284.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. McMillan', written over the word 'Sincerely,'.

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