

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



*Serious drought.
Help save water!*

May 27, 2014

Facsimile: (707) 747-0593

Andrew Keough
American Civil Constructors
3701 Mallard Drive
Benicia, CA 94510

05-1F4804
05-SB-101-47.3/47.9
B.O. 05/14/2014

Dear Mr. Keough:

The Department of Transportation (Caltrans) received the attached letter dated May 23, 2014, from American Civil Constructors, protesting R. Burke Corporation's (R. Burke) bid. The protest alleges that in Column 3 of the Subcontractor's List form, R. Burke indicates percentages that are +/-.

Caltrans did not conduct a review of this protest, since the bid submitted by R. Burke was found non-responsive.

Caltrans will proceed to award the contract to the lowest responsible bidder.

If you have any questions, please contact Mulissa Smith, Contract Awards Branch Manager, at (916) 227-6228.

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

Attachment



May 23, 2014

California Department of Transportation
Division of Engineering Services
Office Engineer MS 43
1727 30th St.
Sacramento, CA 95816
Fax: 916-227-6282

Attention: John C. McMillan
Contract: 05-1F4804
Re: Bid Protest of Low Bidder
Bid Opening: May 14, 2014

Dear Mr. McMillan,

American Civil Constructors West Coast, Inc. hereby protests the award of the above mentioned contract to R. Burke Corporation due to grave errors in their bid documents.

After reviewing the low bidder's posted bid documents, it is apparent that the Subcontractor List and DBE Commitment Form are inconsistent with one another and fraught with errors. Most notably, the percentages listed in their Subcontractor List contain approximations (+/-) for two bid items. Furthermore, when comparing the Subcontractor List and percentages to the DBE Commitment Form, major inconsistencies are observed.

Mainly of note:

- The low bidder listed KRC Safety on their Subcontractor List for +/- **46%** of Bid Item #3. When compared to the DBE Commitment Form, KRC Safety is listed for only \$14,265 of Bid Item #3, which is **30.35%**. This is a serious inconsistency with the listed subcontractor percentages.
- The low bidder also listed KRC Safety on their Subcontractor List for +/- **50%** of Bid Item #4. The low bidder then listed KRC Safety on their DBE Commitment Form for \$1,400, which is only **28%** of Bid Item #4. Again, this is inconsistent with their listed subcontractor percentages.

In the bid documents, Revised Standard Specifications Section 2-1.10 states in part, "... *The Subcontractor List must show name, address, and work portions to be performed by each subcontractor listed. Show work portions by bid item number, description, and percentage of each bid item subcontracted*".



Approximations (+/-) of a subcontractor's participation cannot and should not be allowed. Allowing a bidder to place '+/-' in the percentage column of the Subcontractor List would clearly violate the terms and intent of the Subletting and Subcontracting Fair Practices Act. It would allow a bidder the opportunity to change quantities and scopes of work performed by the subcontractor in a way that both confers advantage to the bidder and allows for bid shopping and bid peddling arrangements to be used post bid.

Caltrans must adhere to the requirements of the Subletting and Subcontracting Fair Practices Act. R. Burke Corporation's bid is clearly non-responsive and ineligible for award.

Please contact me with any questions.

Signed,

A handwritten signature in black ink, appearing to read 'Andrew Keough', is written over a large, stylized, handwritten letter 'J'.

Andrew Keough
Estimator
American Civil Constructors
707-742-6422

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION
BID BOOK

Contract No.: 05-1F4804

Project ID: 0514000001

Bidder: VC0000021634 - R. Burke Corporation

Item No.	Item Code	Item Description	Unit Of Meas	Quant	Unit Price		Item Total	
					Dollars	Cts	Dollars	Cts
Section 1 BID ITEM LIST								
1	070030	LEAD COMPLIANCE PLAN	LUMP SUM		LUMP SUM			3,000.00
2	120090	CONSTRUCTION AREA SIGNS	LUMP SUM		LUMP SUM			5,000.00
3	120100	TRAFFIC CONTROL SYSTEM	LUMP SUM		LUMP SUM			47,000.00
4	128652	PORTABLE CHANGEABLE MESSAGE SIGN (LS)	LUMP SUM		LUMP SUM			5,000.00
5	130100	JOB SITE MANAGEMENT	LUMP SUM		LUMP SUM			25,000.00
6	130200	PREPARE WATER POLLUTION CONTROL PROGRAM	LUMP SUM		LUMP SUM			3,000.00
7	130620	TEMPORARY DRAINAGE INLET PROTECTION	EA	2.0		850.00		1,700.00
8	150714	REMOVE THERMOPLASTIC TRAFFIC STRIPE	LF	2,380.0		1.50		3,570.00
9	150722	REMOVE PAVEMENT MARKER	EA	250.0		1.50		375.00
10	027285	HIGH FRICTION SURFACE TREATMENT (POLYMER RESIN) (SQYD)	SQYD	5,060.0		33.00		166,980.00

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION
BID BOOK

Contract No.: 05-1F4804 Project ID: 0514000001
Bidder: VC0000021634 - R. Burke Corporation

SUBCONTRACTOR LIST

The bidder must identify each subcontractors 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 business name, location, and description of subcontracted work and submit with the bid. Complete bid item numbers and percentage of bid item subcontracted and submit with the bid, or fax to (916)227-6282 within 24 hours after the bid opening. Failure to provide complete information in all areas within the time specified will result in a nonresponsive bid.

List this sub? Yes

1) Business Name: SUPER SEAL & STRIPE
City: FILLMORE State: CA
Description of Subcontracted Work:

STRIPING, MARKING, REMOVALS & LEAD COMPLIANCE PLAN WITH TRAFFIC CONTROL

Bid Item Numbers:

1,8,9,11,12,13,14

Percentages of Bid items Subcontracted:

100

Bid Item Numbers:

3

Percentages of Bid items Subcontracted:

9

Bid Item Numbers:

Percentages of Bid items Subcontracted:

Bid Item Numbers:

Percentages of Bid items Subcontracted:

Bid Item Numbers:

Percentages of Bid items Subcontracted:

List this sub? Yes

2) Business Name: KRC SAFETY CO., INC.
City: VISALIA State: CA

Description of Subcontracted Work:

CONSTRUCTION AREA SIGNS & TRAFFIC CONTROL (PORTION)

Bid Item Numbers:

2

Percentages of Bid items Subcontracted:

100

Bid Item Numbers:

3

Percentages of Bid items Subcontracted:

+/-46

Bid Item Numbers:

4

Percentages of Bid items Subcontracted:

Approximation

+/-50

Bid Item Numbers:

Percentages of Bid items Subcontracted:

Bid Item Numbers:

Percentages of Bid items Subcontracted:

Approximation

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION
BID BOOK

Contract No.: 05-1F4804

Project ID: 0514000001

Bidder: VC0000021634 - R. Burke Corporation

CALTRANS BIDDER - DBE - COMMITMENT (continued)

Bid Item No. 8, 9, 11, 12, 13, 14

Item of work and description of services to be subcontracted or materials to be provided: REMOVE STRIKE & MARKERS, FURNISH & INSTALL NEW STRIKE & MARKERS

Name of DBE (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors) SURFACE SEAL & STRIKE
PO BOX 755, TULLYVILLE, CA 93016
(650) 574-7345 DBE # 2003

Dollar amount DBE \$5,276.00

Bid Item No. 2

Item of work and description of services to be subcontracted or materials to be provided: CONSTRUCTION AREA SIGNS

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) KRC SAFETY Co, INC
PO BOX 6356, VISALIA, CA 93290
(559) 732-0393 DBE # 447

Dollar amount DBE \$2,500-

Bid Item No. 3

Item of work and description of services to be subcontracted or materials to be provided: IMPACT ATTENUATOR, VEHICLE ABRADE, FLASHING PATTERN SIGN LANTERN, LANE CLOSURES (PORTION)

Name of DBE (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors) KRC SAFETY Co, INC
NOTE: RENTALS INCLUDE DELIVERY AND PICK-UP
PO BOX 6356, VISALIA, CA 93290
(559) 732-0393 DBE # 447

Dollar amount DBE \$14,265-

$14,265 \div 47,000 = 30.35\% \neq \pm 46\%$

Bid Item No. 4

Item of work and description of services to be subcontracted or materials to be provided: PORTRAIT CANS, SIGNAL PANS DELIVERY AND PICK-UP

Name of DBE (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors) KRC SAFETY Co, INC
PO BOX 6356, VISALIA, CA 93290
(559) 732-0393 DBE # 447

Dollar amount DBE 1,400-

$1,400 \div 5,000 = 28\% \neq \pm 50\%$



3701 Mallard Drive ♦ Benicia CA 94510
 Phone (707) 746-8028 ♦ Fax (707) 747-0593

Attn: **MSC-43**
OFFICE ENGINEER
DEPARTMENT of TRANSPORTATION
1727 30th STREET
 Phone: **SACRAMENTO, CA 95816**
 Fax: **916-227-6282**
 Email: -

LETTER OF
TRANSMITTAL

Date:	05/23/14	BID:	05-1F4804
Attention:	Office Engineer MS-43		
RE:	Bid Protest of Low Bidder		

WE ARE SENDING YOU:

Copies	Date	Description
1	23-May	Bid Protest of Contract 05-1F4804

THESE ARE TRANSMITTED:

As requested

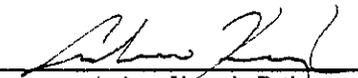
For approval

For your use

REMARKS:

COPY TO: File

SIGNED:


 Andrew Keough, Estimator

If enclosures are not as noted, kindly notify us at once...

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

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

May 28 2014 07:31am

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
917077470593	Normal	28:07:31am	0'15"	1	# O K	

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

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



*Serious drought.
Help save water!*

May 27, 2014

Facsimile: (707) 747-0593

Andrew Keough
American Civil Constructors
3701 Mallard Drive
Benicia, CA 94510

05-1F4804
05-SB-101-47.3/47.9
B.O. 05/14/2014

Dear Mr. Keough:

The Department of Transportation (Caltrans) received the attached letter dated May 23, 2014, from American Civil Constructors, protesting R. Burke Corporation's (R. Burke) bid. The protest alleges that in Column 3 of the Subcontractor's List form, R. Burke indicates percentages that are +/-.

Caltrans did not conduct a review of this protest, since the bid submitted by R. Burke was found non-responsive.

Caltrans will proceed to award the contract to the lowest responsible bidder.

If you have any questions, please contact Mulissa Smith, Contract Awards Branch Manager, at (916) 227-6228.

Sincerely,

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

Attachment