

# BORTOLUSSI & WATKIN, INC.

*General Landscape Contractors*

77 LARKSPUR ST. SAN RAFAEL, CA 94901-4886 CA.LIC. #962905 C-27  
PHONE 415- 453-4675 415-453-2978 FAX

July 1, 2014

John C. McMillan, Deputy Division Chief  
Department of Transportation  
Office Engineer  
Division of Engineering Services  
1727 30<sup>th</sup> Street, MS 43  
Sacramento, CA 95816-8041  
Fax: (916) 227-6282

Re: Irrigation, Planting, and Plant Establishment #05-330764  
Subject: Bid Protest 1

Dear Mr. McMillan:

This letter is to formally protest the nonresponsive bid finding from Caltrans dated June 30, 2014 for project #05-330764 near Paso Robles.

Caltrans alleges that Bortolussi & Watkin, Inc. (BWI) failed to submit the Subcontractors List form with the bid documents. On the contrary, the Subcontractors List was submitted without subcontractors listed at bid time. The electronic Subcontractors List only allows for a "Yes" or "No" selection; it does not allow the contractor to write in "No Subcontractors".

It should be noted that BWI was not required to list any subcontractor (s) on the submitted Subcontractor's List. Subcontractors List states the following: *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, which 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.* Since BWI did not have any subcontractor (s) that met the above criteria, "NO" was the only option when submitting the electronic Subcontractors List.

BWI points to the attached instruction by Chris Rice date November 1, 2013 How to Complete an Electronic Bid File to emphasize our claim that the Subcontractors List was submitted with the bid and no subcontractor was listed. Caltrans Electronic Bidding Guide dated February 19, 2014 on page 10, Subcontractors List folder, further emphasizes that no other information was required. The Electronic Bidding Guide states the following: *The first pull down for "List this Subcontractor?" is required to be selected. If you select "No", no information regarding that specific subcontractor will be reported. If you select "Yes" then you must enter the firm name, city, state, and description of work.* As the instructions show, the Bidder has to select yes to list a subcontractor. Because BWI was not listing any subcontractors, "No" was selected, therefore submitting the Subcontractors List with the bid, requiring no additional information.

Because BWI was not listing any subcontractors based on the ½ of 1 percent rule, the subcontractors list was complete at bid time, and we believe that BWI's nonresponsive bid letter should be corrected.

Thank you for your time and consideration.

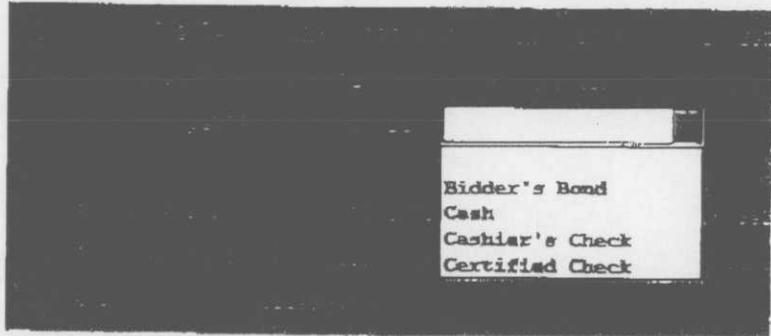
Please call me if you have any question regarding this matter.

Sincerely,

Raul Garcia,  
President

**Bid to the Department of Transportation folder**

Enter your contractor license number in the space provided. This is required for projects without Federal Aid, and optional for projects with Federal Aid. Select the type of bid security submitted with your bid.



**Subcontractor List folder**

Enter firm name, city, state, description of work, bid item numbers, and percentage of each bid item numbers for each of your subcontractors performing work in excess of 1/2 of 1 percent of the total bid, or \$10,000, whichever is greater.

The first pull down for "List this subcontractor?" is required to be selected. If you select "No", no information regarding that specific subcontractor will be reported. If you select "Yes" then you must enter the firm name, city, state, and description of work.

For each additional subcontractor you would like to list, select "Yes" from the "List this subcontractor?" pull down menu. Once the "Yes" has been selected you must enter the firm name, city, state, and description of work. If you enter information for a subcontractor and then decide to not list that subcontractor, you can select "No" from the specific subcontractor's "List this subcontractor?" pull down menu, to not list that subcontractor. This is equivalent to crossing out a subcontractor's name from the paper bid book's Subcontractor List.

"List this subcontractor" pull down

