

PAPICH
CONSTRUCTION, INC.
GENERAL ENGINEERING CONTRACTOR
CAL. LIC. #767055
P.O. BOX 2210, PISMO BEACH, CA 93448
(805) 473-3016 OFFICE • (805) 481-5986 FAX

December 3, 2014

Department of Transportation
Division of Engineering Services
Office Engineer, MS43
172730th Street
P.O. Box 168041
Sacramento, CA 95816-8041

Attention: John McMillan, Deputy Division Chief

RE: 06-0P1804, Construction on I-5 from Kettlemen City to Utica Ave
Bid opening October 29, 2014

Dear Mr. McMillan,

Papich Construction Company, Inc (PCI) has reviewed the response by Granite Construction Company, Inc (GCC) dated November 20, 2014 to our formal protest submitted by PCI for contract # 06-0P1804 on November 12, 2014. GCC has failed to explain why they modified subcontracted amounts and scope on their 24 hour subcontractor listings, obtaining an unfair advantage over other bidders, rendering their bid non responsive. This competitive advantage additionally allowed manipulation of their DBE utilization ensuring they met the goal without grossly overcommitting as previously referenced in PCI's initial protest letter.

Inconsistencies in GCC bid between bid item numbers listed and description of portion of work provided at bid time while listing Super Seal and Stripe, and St. Francis Electric

In Papich's original protest, it was pointed out that when Granite provided the description of subcontracted work (Column 4 Subcontractor List Form), they failed to adequately describe all work being performed by two subcontractors. Super Seal and Stripe was listed for "Pavement Delineation". St. Francis Electric was listed for "Electrical". On the 24-hour listing form, Granite added the additional scope of Mobilization to each subcontractor's listing (Column 2 Bid Item Nos.).

Adding scope to a subcontractor's listing after the initial bid submission is not permissible as Papich pointed out by referencing previous Caltrans non-responsive determinations. Conversely, Granite counters in citing the following previous Caltrans determinations:

Contract 04-2A2504 Caltrans Determination:

"Mobilization is relative to the scope of work performed by these subcontractors as they must first mobilize onto the Project site in order to complete their work, and mobilization, by itself, is not considered work requiring a contractor's license."

Contract 07-1218W4 Caltrans Determination:

"Concerning Mobilization not being a component of Electrical or CIDH Concrete Piling, Isolation Casing, and Tie Downs, Caltrans determination is that Mobilization is a component of all bid items."

Papich contends that while Granite and Caltrans are not wrong by citing the above arguments, both parties are not necessarily correct either. Further examination of the specific contract and subcontractor proposals in question are required in order to provide a definitive determination as to whether mobilization is a separate scope of work.

With regards to both determinations above, please consider that:

Section 9-1.16D Mobilization of the Standard Specifications states that "Mobilization is eligible for partial payments if the Contract includes a bid item for mobilization. The Department makes the partial payments under Pub Cont Code § 10264. If the Contract does not include a mobilization bid item, mobilization is included in the payment for the various bid items."

Essentially, on a contract by contract basis, Caltrans decides whether mobilization is classified as separate scope of work by either providing a mobilization bid item or not. In the case of Contract 06-0Q2504, Bid Item 81 was set aside by Caltrans for mobilization; thereby, specifically delineating it as a separate scope of work.

Further, Section 1-1.07 Definitions of the Standard Specifications defines mobilization as "Preparatory work that must be performed or costs incurred before starting work on the various items on the job site (Pub Cont Code § 10104)." While mobilization may be relative to or a component of some or all other bid items, one cannot simply make the determination that it is not a distinct scope of work. Reinforcing steel installation is both relative to and a component of concrete structure construction; however, it is also clearly recognized as a distinct scope.

The Caltrans determination from 04-2A2504

Finally, in reviewing subcontract proposals received prior to the bid, one can ascertain on a subcontractor by subcontractor basis whether or not mobilization should be classified as a separate scope of work. In the case of a contract with a mobilization item, such as the one in question here, subcontractors routinely submit proposals with and without mobilization pricing. This fact in itself provides further evidence as to whether or not mobilization should be considered a distinct scope of work. In a case where a subcontractor did

not submit pricing for the mobilization item, mobilization is clearly not a separate scope of work as the subcontractor has decided that no preparatory work must be completed or that no costs will be incurred prior to starting the work. However, as in this case, both the proposals of Pavement Recycling Systems and St. Francis Electric included costs for mobilization as evidenced by Granite's post-bid listing.

Cal Trans has consistently found bidders non responsive for expanding the scope of listed subcontractors. For these reasons, GCC has made impermissible and material changes to their bid, rendering their bid non responsive. The project must be awarded to the next lowest responsible and responsive bidder, which is Papich Construction Co. Inc.

Sincerely,



David Cruce
Area Manager
Papich Construction Co. Inc.

Cc: file, JP

Enclosures

PAPICH

CONSTRUCTION CO., INC.

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FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Caltrans	David Cruce
COMPANY:	DATE:
	12/3/14
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
916-227-6282	
RE:	YOUR REFERENCE NUMBER:
06-0P1804	

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE READ

Please find attached protest of Granite Construction's bid for the above referenced project.