



Clean Cut

— LANDSCAPE —

Department of Transportation
1727 30th Street
Sacramento, CA 95816-8041
(916) 227-6299
FAX (916)-227-6282
RE: Cal Trans Bid #06-0Q2104

April 13, 2015

Dear Mr. McMillan,

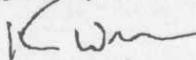
The DVBE Summary documentation provided by Wabo Landscape for Cal Trans project #06-0Q2104 includes 2 documents from the same DVBE provider namely Sam's Equipment Company. Please refer to "Award of Contracts" sub heading "Standard of Review." The quotes differ in both product and cost. It is our position this constitutes a "material variation" in the bid documents as defined below.

Standard of Review:

A "responsive" bid is one that is in strict and full accordance with all material terms of the bid package. Any material variations will place the bidder at risk of being rejected by the public entity as non-responsive. Material terms include: (1) terms that could affect price, quantity, quality or delivery; and (2) terms that are clearly identified by the public entity and that must be complied with at the risk of bid rejection. A test used to determine whether a bid fails to materially comply with the bidding documents is whether the failure to comply gives the bidder an economic advantage or benefit not enjoyed by other bidders.

2 differing quotes must, by definition, constitute a "material variation" as they are both material and vary from one another. The apparent original quote on bid day has a significantly higher price than the 2nd quote provided 4 days later (used on the DVBE Summary) AND a different item description as well. Additionally the inclusion of duplicate differing quotes with the DVBE Summary renders the bid of Wabo "Non Responsive" as there is at the least an appearance of "bid shopping" as well as material variations in the bid documents supplied by the vendor/DVBE supplier. Further, this allows an unfair bidding advantage "not enjoyed by other compliant bidders," and probably even more importantly an apparent disadvantage to the certified DVBE by seeming suppression of Sam's price. The first quote with the hand written "use partial" is somehow not used on the DVBE Summary in any way. We are requesting the bid by Wabo be determined as "non-responsive" and rejected on these several grounds.

Respectfully,



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cc. Esqs. Gilmore, Magness and Leifer