



April 24, 2015

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER, MS 43
1727 30th STREET
P.O. BOX 168041
SACRAMENTO, CA. 95816-8041
PHONE (916) 227-6280
FAX (916) 227-6282

ATTN: Mr. John C. McMillan
Deputy Division Chief

Subj: 060T1804 FOR CONSTRUCTION ON STATE HIGHWAY IN TULARE COUNTY NEAR GOSHEN FROM
0.2 MILE NORTH OF NORTH GOSHEN OVERHEAD TO 0.2 MILE NORTH OF DODGE AVENUE
OVERCROSSING IN DISTRICT 06 ON ROUTE 99

Re: FORMAL PROTEST OF BID SUBMITTED BY GRANITE CONSTRUCTION COMPANY (GRANITE)

Dear Mr. McMillan,

Please consider this letter to be a formal protest of the bid submitted by Granite, the apparent low bidder on the subject project. The bid turned in by Granite is nonresponsive and therefore must be rejected based on the Department's bidding requirements, strictly enforced policies and governing applicable Federal Regulations. There are two primary reasons giving cause for the bid turned in by Granite to be deemed non-responsive. Chester Bross Construction Company is the 2nd lowest bidder on this project.

Granite failed to properly complete its subcontractor listing

The Caltrans Bidder Subcontractor List form states very clearly in part.. *"the bidder must set forth in the bid the name, the location of the place of business, the California contractor license number, and the portion of work 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 who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications."*

The bid day subcontractor listing provided by Granite was incomplete and as such, non-compliant. The subcontractor listing submitted by Granite did not provide the required "Description of Portion of Work on numerous bid items for Safety Striping Service, Inc. (Please see attached sheet 7 from the Granite Bid). Effectively, Granite did not provide a complete subcontractor listing on bid day in keeping with the clear, express requirements. As such, Safety Striping Service, Inc. cannot be utilized on the subject project.

Caltrans has been very consistent in its enforcing the strict compliance with the requirements set forth on and about the Subcontractor listing.



Granite failed to meet the DVBE goal of 3% shown on the Notice to Bidders

The Caltrans Bidder Certified DVBE Summary form states in part.. *"Names of first tier DVBE subcontractors and their items of work listed must be consistent with the names and items of work in the Subcontractor List (Pub Cont Code § 4100 et seq.) submitted with the bid."*

Granite, on its Certified DVBE Summary (attached) utilized Safety Striping Service, Inc. exclusively, to meet the 3% goal minimum requirement.

As outlined herein above, Safety Striping Service, Inc. cannot be utilized by Granite on the subject project for because Granite did not submit the Safety Striping Service, Inc. portion of its Subcontractor List form completely or correctly.

Given the fact that Safety Striping Service, Inc. cannot participate in the subject project, Granite cannot utilize Safety Striping Service, Inc. to achieve the required DVBE goal of 3%. Thus, Granite constructions corrected total claimed DVBE participation is 0%.

Section 2-1.15B, the third paragraph states.. *"Meet the goal shown on the Notice to Bidders"*. Paragraph 5 states.. *"List each 1st-tier DVBE subcontractor in the Subcontractor List form regardless of percentage of the total bid."* Given the facts presented herein, Granite has not complied with either of the paragraphs listed above. As such, Caltrans has no choice other than to consider the bid submitted by Granite as nonresponsive and move forward with award to the lowest responsive bidder, Chester Gross Construction.

In point of fact, it should be noted that the errors present in the Granite bid are to no fault of Safety Striping Service, Inc. In a fortunate turn of events, Chester Gross Construction also included Safety Striping Service, Inc. correctly on its subcontractor listing, and utilized Safety Striping Service, Inc. correctly as its qualifying DVBE participant. Thus, should Chester Gross Construction be awarded the subject project, Safety Striping Service, Inc. will in fact be able to participate in the construction of this project regardless of the Granite error and subsequent disqualification.

One additional circumstance noteworthy of mention, is an almost identical situation on Caltrans contract 06-0Q7704 where Chester Gross Construction was the apparent low bidder. With respect to this project, Chester Gross made an error on its Subcontractor List Form, as such, and in keeping with the exact same provisions brought forth in this protest, Caltrans disqualified the subcontractors and one of the subcontractors was utilized by Chester Gross Construction as its qualifying DVBE subcontractor. As such, the Department notified Chester Gross Construction via letter dated February 7, 2014 (attached), in part that.. *"Since Chester Gross must perform bid item 3, with its own forces, that work cannot now be counted towards the 3 percent Disabled Veterans Business Enterprise (DVBE) participation on this contract. As a result, the total claimed participation has been reduced... Therefore, Chester Gross did not meet the stated DVBE participation goal for this contract and is no longer eligible for award of this contract."*

Conclusion

Based on the considerable facts, references and information presented herein, governing regulations, specifications, and law, the bid provided by Granite must be rejected as Granite is no longer eligible for award of this contract. Therefore, it is respectfully and formally requested that the Department uphold and validate Chester Gross Construction's bid protest and reject the bid submitted by Granite and proceed to award the contract to the lowest responsible bidder.

Thank you for your attention to this matter and please feel free to contact me if you have any questions.

Very truly yours,

Shawn N. Simmons
Western Division Manager

Sent Via Facsimile to (916) 227-6282

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
 Contract No.: 06-0T1804 Project ID: 0615000031
 Bidder Name: Granite Construction Company
 DES-OE-0102.2B (REV 5/2014)

Bidder ID: VC0000000213

Bidding Firm: Granite Construction Company

List this sub? Yes

- 1) Business Name Safety Striping Service, Inc.
 Location City Goshen State CA
 California Contractor License Number 308669
 CA Department of Industrial Relations' Registration Number 1000001574
 Portion of Work Subcontracted:

Item #	Description
1 50	Lead compliance plan pavement delineation.
3 13	Traffic control for pavement delineation.
7 100	?
8 100	
18 100	

List this sub? Yes

- 2) Business Name Safety Striping Service, Inc.
 Location City Goshen State CA
 California Contractor License Number 308669
 CA Department of Industrial Relations' Registration Number 1000001574
 Portion of Work Subcontracted:

Item #	Description
20 100	?
21 100	
22 100	
23 100	
24 100	

List this sub? Yes

- 3) Business Name Veteran Diversified General Engineering
 Location City Prather State CA
 California Contractor License Number 930904
 CA Department of Industrial Relations' Registration Number 1000012219
 Portion of Work Subcontracted:

Item #	Description
9 47	Cold planning and hauling.

Low Bidder

04-14-15A11:05 RCVD

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION
CERTIFIED DVBE SUMMARY
 DES-OE-0102.5 (REV 3/2008)

DISTRICT-COUNTY-ROUTE: 06 - Tul-99-41.3/52.0CONTRACT NO.: 06-0T1804TOTAL BID: \$2,689,417.00BID OPENING DATE: 04/09/15BIDDER'S NAME: Granite Construction Company

DVBE PRIME CONTRACTOR CERTIFICATION *

Bid Item Number	Description of Work to Be Subcontracted to DVBE or Materials to Be Supplied by DVBE ²	For Caltrans Only	DVBE (Name, Telephone No., and Certification No.)	\$ Amount
1	Lead Compliance Plan for Pavement Delineation		Safety Striping Service, Inc. 6868 Ave 305 Goshen, CA 93227 559-651-1022 #14354	1,500.00
3	Traffic Control for Pavement Delineation			20,000.00
7, 8, 18, 20-24	Pavement Delineation			98,704.50
Names of first tier DVBE subcontractors and their items of work listed must be consistent with the names and items of work in the Subcontractor List (Pub. Cont Code § 4100 et seq.) submitted with the bid. Identify second and lower tier subcontractors on this form.				Total Claimed Participation \$ <u>120,204.50</u> <u>4.47</u> %

1. DVBE prime contractors must enter their DVBE reference number or their DBA name as listed with Department of General Services. (DVBE prime contractors are credited with 100 percent DVBE participation and need not complete the above table).

2. If 100% of an item is not performed or supplied by the DVBEs, describe the exact part, including the planned location of work to be performed, or item to be performed or supplied by DVBE.

Submit to:

MSC 43
 OFFICE ENGINEER
 DEPARTMENT OF TRANSPORTATION
 1727 30TH STREET
 SACRAMENTO, CA 95816-7005

 4/9/15
 Signature of Bidder Date

559-441-5700

(Area Code) Telephone Number

Jeffrey W Grimm

Contact Person (Type or Print)

ADA Notice

For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 854-8410, TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

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APR 24 2014 04:10PM

STATE OF CALIFORNIA - CALIFORNIA STATE TRANSPORTATION AGENCY

ROBERT G. BROWN Jr. Governor

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES

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 P. O. BOX 168041
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 PHONE (916) 227-6299
 FAX (916) 227-6282
www.dot.ca.gov/hq/engjoc



Flex your power!
 Be energy efficient!

February 7, 2014

Facsimile: (209) 263-0123

Mike Gross, Vice President
 Chester Gross Construction, Inc.
 39 California Street, PMB 118
 Valley Springs, CA 95252

06-0Q7704
 06-Tul-43-0.0/9.5
 B.O. 12/18/2013

Dear Mr. Gross:

The Department of Transportation (Caltrans) received a bid from Chester Gross Construction, Inc. (Chester Gross) for contract 06-0Q7704 on December 18, 2013. By this letter, Caltrans notifies Chester Gross that it must perform bid item 3, Traffic Control with its own forces.

Public Contract Code Section 4106 states in pertinent part, "... If a prime contractor fails to specify a subcontractor or if a prime contractor specifies more than one subcontractor for the same portion of work to be performed under the contract in excess of one-half of 1 percent of the prime contractor's bid, the prime contractor agrees that he or she is fully qualified to perform that portion of work himself or herself, and that the prime contractor shall perform that portion himself or herself."

On the Subcontractor List form submitted with its bid, Chester Gross identified the Chrisp Company to perform 95 percent of work bid item 3, Traffic Control and in addition identified and Roll 'N Rock Construction, Inc. (RNR) to perform 8 percent of the work, for a total of 103 percent.

Since Chester Gross must perform bid item 3, with its own forces, that work cannot now be counted towards the 3 percent Disabled Veterans Business Enterprise (DVBE) participation on this contract. As a result, the total claimed participation has been reduced from \$47,087 or 3.24 percent, to \$8,441 or .058 percent.

Therefore, Chester Gross did not meet the stated DVBE participation goal for this contract and is no longer eligible for award of this contract.

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

Sincerely,


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