



December 12, 2014

State of California
Department of Transportation
1727 30th Street, Bidder Exchange, MS 43
Sacramento, CA 95816-8041

Attn: John C. McMillan, Deputy Division Chief, Office Engineer

Subject: Bid Protest; Contract No. 06-432604 Route 33, Jacalitos Creek Bridge, Coalinga, CA

Mr. McMillan,

Please consider this letter as a formal protest of the bid submitted by MCM Construction, Inc. (MCM) for Contract No. 06-432604. As of 12/9/14 MCM was posted on the Caltrans website http://www.dot.ca.gov/hq/esc/oe/plnholders/oe_bidsum_result.php as the low responsive bidder and Agee Construction Corporation (Agee) as the second lowest responsive bidder for the subject contract number.

After review of MCM's Subcontractor List and the 24 hour Subcontractor List, MCM expanded and reduced the scope of work of listed subcontractors, similarly to Souza Construction, Inc. and Emmett's Excavation, Inc. which were both found to be non-responsive on November 2nd and December 9th.

KRC Safety Co., Inc.

KRC Safety Co., Inc. (KRC) was listed at bid time for *Signs, Channelizer, K-Rail, Crash Cushion*. On MCM's 24 hour subcontractor listing and DBE commitment form MCM expanded KRC's portion of work by including item 66 Object Marker (Type P) and item 67 Special Marker. Markers are not *Signs, Channelizer, K-Rail, Crash Cushion* therefore MCM expanded KRC's scope of work.

Midstate Barrier, Inc. and Harris Rebar Northern CA, Inc.

Midstate Barrier, Inc. (Midstate) was listed at bid time for *Concrete Barrier*. On MCM's 24 hour subcontractor listing Midstate's portion of work was reduced to 70% of item 72 Concrete Barrier changing Midstate's portion of work to Concrete Barrier (Partial). In connection with MCM's listing of Midstate, Harris Rebar Northern CA, Inc. (Harris Rebar) was listed at bid time for *Rebar*. On MCM's 24 hour subcontractor listing Harris Rebar's portion of work was expanded to include 11% of item 72 Concrete Barrier.

Papich Construction Company, Inc.

Papich Construction Company, Inc. (Papich) was listed at bid time for bid item numbers *1, 17, 30-32, 34, 35, 43-48, 57-64*. On MCM's 24 hour subcontractor listing Papich's portion of work was reduced to 50% of item 17 Street Sweeping changing Papich's portion of work to item 17 (Partial).

In conclusion, Caltrans has consistently found bidders non-responsive on this contract and previous contracts for manipulating or adjusting the scope of work between the Subcontractor List submitted at bid time, 24 hour Subcontractor Listing and DBE Commitment Form. Given the above information Caltrans should find MCM Construction, Inc.'s bid non-responsive and award the Contract to the lowest responsive bidder

Sincerely,

A handwritten signature in black ink, appearing to read "Alan Dirlam".

Alan Dirlam,
Chief Estimator
Agee Construction Corporation

P.O. Box 629 • Clovis, CA 93613 • (559) 299-3290 • FAX (559) 299-3503

Contractor's License # 631980, Class A & B

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION
CALTRANS BIDDER - DBE - COMMITMENT
DES-OE-0102.10C (NEW 06/2012)

Third Bidder

This information may be submitted with your bid proposal. If it is not, and you are the apparent low bidder or the second or third low bidder, it must be submitted and received as specified in section 2 of the specifications. Failure to submit the required DBE information will be grounds for finding the bid nonresponsive.

CONTRACT NO:

06-432604

BID AMOUNT:

\$3,777,777.00

BID OPENING DATE

11/6/2014

BIDDER'S NAME:

MCM CONSTRUCTION, INC.

DBE GOAL FROM CONTRACT, %:

10%

DBE PRIME CONTRACTOR CERTIFICATION¹:

N/A

| BID ITEM NO. | ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED ² | FOR CALTRANS USE ONLY | 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) | DOLLAR AMOUNT DBE ³ |
|--------------------------|---|-----------------------|---|--------------------------------|
| 2,6,10,11, 66,67 ↑ | SIGNS CHANNELIZER, K-RAIL, CRASH CUSHION | | KRC SAFETY CO INC DBE NO. 447 7821 W. SUNNYVIEW VISALIA, CA 93291 (559) 732-0393 | \$77,800.00 |

IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Names of the First Tier DBE Subcontractors and their respective items(s) of work listed above must be consistent, where applicable, with the names and items of work in the "Subcontractor List" submitted with your bid. Copies of the DBE quotes are required.

1. DBE prime contractors must enter their certification number and indicate all work to be performed by DBEs including work performed by its own forces.
2. If 100% of item is not to be performed or furnished by DBE, describe exact portion of item to be performed or furnished.
3. See section 2-1.12 of the specifications to determine the credit allowed for DBE firms.

Submit to:

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

Total Claimed Participation

\$101,755.50

4.8 %

Signature of Bidder

11/11/2014
Date

(916) 334-1221
(Area Code) Tel. No.

Richard McCall, Estimator
Person to Contact (Please Type or Print)

ADA Notice

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STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

SUBCONTRACTOR LIST

DES-05-0102.2B (REV 5/2014)

contract NO. DL-4321004Bidding Firm: M C M Construction, Inc.

Under Public Contract Code § 4100 et seq., 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, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

The Bidder must submit within 24 hours of the bid opening, the bid item numbers with percentages of the portion of work subcontracted,

| Business Name and Location | California Contractor License Number ^(*) | Description of Portion of Work | Bid Items Numbers | Percentage of Bid Item Subcontracted |
|--|---|--|---|--------------------------------------|
| Papich Construction Company Inc Pismo Beach, CA | 767055 | Grading, Paving, Drainage, Rock Slope Protection | 1 17 30-32, 34, 35, 43-48, 57-64 | 50% 50% ← 100% 100% |
| Harris Rebar Northern California Inc Fresno, CA | 695035 | Rebar | 55, 56 72 | 100% ← 11% |
| KRC Safety Co Inc Visalia, CA | 507950 | Signs, Channelizer, K-Rail, Crash Cushion | 2, 6, 10, 11, 66, 67 | 100% 100% |
| Safety Striping Service Inc. Goshen, CA | 308669 | Striping, Lead Plan (Stripe), Traffic Control | 1 3 4, 5, 7, 22, 28, 29, 73-75 | 50% 30% 100% 100% |
| KCI Environmental Inc San Luis Obispo, CA | 813844 | Erosion Control | 38-42 | 100% |

* Not required on contracts with Federal-Aid.

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STATE OF CALIFORNIA · DEPARTMENT OF TRANSPORTATION

SUBCONTRACTOR LIST

DES-DE-0102.2B (REV 5/2014)

Contract no. DV-432104Bidding Firm: M C M Construction, Inc.

Under Public Contract Code § 4100 et seq., 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, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

The Bidder must submit within 24 hours of the bid opening, the bid item numbers with percentages of the portion of work subcontracted.

| Business Name and Location | California Contractor License Number ^(a) | Description of Portion of Work | Bid Items Numbers | Percentage of Bid Item Subcontracted |
|---|---|--------------------------------|-----------------------|--------------------------------------|
| Bentancourt Bros Construction Inc Livermore, CA | 854851 | Electrical | 8, 76 | 100% |
| Dywidag Systems International USA Inc Long Beach, CA | 273710 | Prestressing | 51 | 100% |
| Safeguard Fencing Corona, CA | 849895 | Guard Rail | 23, 27, 68, 70, 71 | 100% 100% |
| Midstate Barrier Inc Stockton, CA | 529261 | Concrete Barrier | 72 | 70% ← |
| Safeguard Fencing Corona, CA | 849895 | Fence & Remove Fence | 24, 25, 65 | 100% |
| Austin Enterprise Bakersfield, CA | 764893 | Joint Seal | 54 | 100% |

^a Not required on contracts with Federal-Aid.

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Contract No.: 06-432604

Project ID: 0600020388

Bidder Name: M.C.M. CONSTRUCTION, INC.

Bidder ID: VC0000018386

SUBCONTRACTOR LIST

DES-OE-0102.2B (REV 5/2014)

Bidding Firm: M.C.M. CONSTRUCTION, INC.

Under Public Contract Code ♦ 4100 et seq., 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, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

The Bidder must submit within 24 hours of the bid opening the bid item numbers with percentages of the portion of work subcontracted.

a Not required on contracts with Federal-Aid.

List this sub? Yes

1) Business Name Papich Construction Company Inc
Location City Pismo Beach State CA
California Contractor License Number (a) 767055
Description of Portion of Work

Grading, Paving, Drainage, Rock Slope Protection

Bid Item Numbers

1, 17, 30-32, 34, 35, 43-48, 57-64

Percentage of Bid Item Subcontracted

Bid Item Numbers

Percentage of Bid Item Subcontracted

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 06-432604 Project ID: 0600020388

Bidder Name:M.C.M. CONSTRUCTION, INC.

Bidder ID:VC0000018386

List this sub? Yes

2) Business NameHarris Rebar Northern California Inc

Location CityFresno StateCA

California Contractor License Number (a) 695035

Description of Portion of Work

Rebar

CONCRETE BARRIER?

Bid Item Numbers

Percentage of Bid Item Subcontracted

List this sub? Yes

3) Business NameKRC Safety Co Inc

Location CityVisalia StateCA

California Contractor License Number (a) 507950

Description of Portion of Work

Signs, Channelizer, K-Rail, Crash Cushion

MARKERS?

Bid Item Numbers

Percentage of Bid Item Subcontracted

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 06-432604 Project ID: 0600020388

Bidder Name:M.C.M. CONSTRUCTION, INC.

Bidder ID:VC0000018386

List this sub? Yes

8) Business NameSAFEGUARD FENCING
Location CityCORONA StateCA
California Contractor License Number (a) 849895
Description of Portion of Work

Guard Rail

Bid Item Numbers

Percentage of Bid Item Subcontracted

List this sub? Yes

9) Business NameMidstate Barrier Inc
Location CityStockton StateCA
California Contractor License Number (a) 529261
Description of Portion of Work

Concrete Barrier

(PARTIAL)?

Bid Item Numbers

Percentage of Bid Item Subcontracted

AGEE CONSTRUCTION CORP.**P.O. Box 629****CLOVIS, CA 93613****(559) 299-3290****FAX (559) 299-3503**

Fax

To: John C. McMillan**From:** John Gerwe**Firm:** Caltrans**Pages:** 8 (including cover)**Fax:** (916) 227-6282**Date:** 12/12/14**Phone:** ()**CC:**

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

● **RE: Bid Protest, Contract No. 06-432604**

John Gerwe
(559) 299-3290 ext 122