

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
TTY 711



*Flex your power!
Be energy efficient!*

May 30, 2013

Facsimile: (805) 964-9951

Brian Larinan, Senior Estimator
Granite Construction Company
P .O. Box 6744
Santa Barbara, CA 93160

07-1W0804
07-Ven-23-20.9/24.2
B.O. 04/25/2013

Dear Mr. Larinan:

The Department of Transportation (Caltrans) received the attached letter dated May 10, 2013, from Granite Construction Company (Granite) alleging that Toro Enterprises Inc. (Toro) improperly completed the Subcontractor List by failing to include William Michael Kaszycki (Kaszycki) on the form but included Kaszycki on the Certified DVBE Summary. The protest also states that Toro did not meet the goal of 3% by including Kaszycki for bid items 1 through 38 and violated the Subcontractor List requirements.

Caltrans did not complete a review of this protest since the bid submitted by Toro was found nonresponsive.

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

Sincerely,

A handwritten signature in black ink, appearing to read "John C. McMillan", written over a horizontal line.

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

Attachment

GRANITE

May 10, 2013

Via Facsimile & U.S. Postal Service

State of California Department of Transportation
Office Engineer, MS 43
1727 30th Street
P.O. Box 168041
Sacramento, CA 95816-8041

Facsimile Number: 916-227-6282

Attn: John McMillan, Deputy Division Chief

Re: Bid Protest
Contract Number: 07-1W0804
Location: 07 - VEN - 23 - 20.9/24.2
Bid Opening Date: April 25, 2013

Dear Mr. McMillan,

On April 25, 2013, Granite Construction Company ("Granite") submitted a bid to the California Department of Transportation (the "Department") for Contract Number 07-1W0804 (the "Contract"). Toro Enterprises, Inc. ("Toro") is currently the monetary low bidder and Granite is the apparent second low bidder. This letter constitutes the bid protest of Granite Construction Company ("Granite") with regard to the above-referenced contract. Toro failed to meet the 3% DVBE goal for the project and violated the subcontractor listing requirements.

Toro claimed \$43,323 of DVBE participation on their DVBE Commitment Form, just 0.25% above the project DVBE goal. The entire claimed amount is for work to be performed by William Michael Kaszycki ("Kaszycki") for "Project Manager/Consultant" on all 38 items of work. The amount claimed is based on a "Subcontractor Quotation" received by Toro via fax on April 26th, the day after the bid opening. The quote is for "Project Management and Consulting Services." Neither the quote, nor the DVBE Commitment Form details what work is actually being performed or how the dollar value of the work is derived. Note 2 on the DVBE Commitment Form states that "if 100% of an item is not performed or supplied by the DVBE, describe the exact part, including the planned location of work to be performed, of item to be performed or supplied by DVBE." Toro clearly did not attempt to fulfill the intent of this requirement so therefore, the entire claimed amount should not be allowed. We believe Toro achieved zero percent DVBE participation for this project.

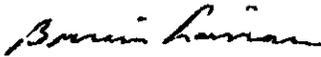
John McMillan
May 10, 2013
Page 2

Further, the Subcontractor List form in the bid documents states, "The bidder must identify each subcontractor performing work in amount in excess of ¼ of 1 percent of the total bid or \$10,000, whichever is greater." As the value of Zaszycki's work exceeds the listing threshold, Toro violated the subcontractor listing requirements for the project by not listing Zaszycki, a licensed subcontractor. For this reason as well, Toro's bid should be deemed non-responsive.

Lastly, the Subcontractor List submitted by Toro states that 19 of the 38 items of work will be performed 100% by a listed subcontractor, none of which are Zaszycki. If Zaszycki is performing some portion of work on all 38 items of work as stated on Toro's DVBE Commitment Form, the percentages of work subcontracted listed in Column 3 on the Subcontractor List are not correct. In essence, Toro's submittal of their DVBE Commitment Form modified Column 3 of their Subcontractor List which is clearly another basis to deem their bid non-responsive.

Granite respectfully requests that Caltrans uphold Granite's bid protest and find the bid of Toro non-responsive and award the contract to Granite as the next lowest responsive and responsible bidder.

Sincerely,
GRANITE CONSTRUCTION COMPANY



Brian Larlan
Senior Estimator

BL:gb

Attachments: Exhibit A - Toro's DVBE Submittal
Exhibit B - Toro's Subcontractor List

Exhibit "A"

Low (In Bid Book)

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

Low Bidder

DISTRICT-COUNTY-ROUTE: 07 - VEN - 25-249/24.2
 CONTRACT NO.: 07-1W0804
 TOTAL BID: 1,333,016.⁰⁰
 BID OPENING DATE: 4/25/13
 BIDDER'S NAME: Toro Enterprises, Inc.
 DVBE PRIME CONTRACTOR CERTIFICATION: _____

Bid Item Number	Description of Work to Be Subcontracted to DVBE or Materials to Be Supplied by DVBE	For Caltrans Only	DVBE (Name, Telephone No., and Certification No.)	\$ Amount
1-38	Project Manager / Consultant		William Michael Kaszycki (805) 375-6429 #1374820	\$ 43,323. ⁰⁰

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	\$ 43,323. ⁰⁰ 3.25 %
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- 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).
- 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, of item to be performed or supplied by DVBE.

Submit to:

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

[Signature]
 Signature of Bidder
 Date: 4/24/13
 (805) 483-4515
 (Area Code) Telephone Number
 Sean Castillo
 Contact Person (Type or Print)

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 864-6410 or TDD (916) 864-3680 or write Records and Forms Management, 1120 N Street, MS-88, Sacramento, CA 95814.

Exhibit "B"

04/26/2013 11:25 Yoro Enterprises

Received

Apr 26 2013 11:15am

FAO

P.002/004

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
SUBCONTRACTOR LIST
 DEB-05-0108.2 (REV 3/2011)

Bidder Name: Yoro Enterprises, Inc.

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, whichever is greater (Pub Cont Code § 4100 et seq.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-8282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
Maneri Traffic Control 47473 Rainbow Canyon Temecula, CA 92592	2	100%	Construction Area Signs
Traffic Loops Crackfilling Inc. 946 S. Emerald Street Anaheim, CA 92804	36, 37	100%	Inductive loop detectors Maintain Existing TMS Elements
Austin Enterprise PO Box 81926 Bakersfield, CA 93380	27 28	100% 100%	Seal Pavement Joints Seal Isolation Joints
Chrip Company 2280 South Lilac Ave. Bloomington, CA 92316	1 7-10 29-35	100% 100% 100%	Lead Compliance Plan Remove thermo markings Striping, pavement marking
Pavement Recycling Systems 10240 San Serrano Way Jurupa Valley, CA 91752	15 16 17	69% 100% 100%	Cold In-Place Recycling Cement Additive Emulsified Recycling Agent
Asphalt Dike Construction Inc. (ATCO) PO Box 990 Crossett, CA 93227	23 24	26% 26%	Place Asphalt Concrete Dike Place Asphalt Concrete Dike

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GRANITE™

FAX

P.O. Box 6744
Santa Barbara, CA 93160
Phone: 805-964-9951
Fax: 805-964-7661
BID FAX 805-967-1431

To: John McMillan	From: Brian Larinan
Company: Caltrans	Date: 5/10/13
Fax: (916) 227-6282	Total Pages (including cover page): 6
Phone: (916) 227-6280	Sender's Reference Number:
RE: Contract No. 07-1W0804	Your Reference Number:

Urgent
 For Review
 Please Comment
 Confirm Receipt

Notes and Comments:

Bid Protest letter

**** Transmit Conf. Report ****

P.1
CALTRANS CONTR AWARDS Fax 916-227-6282

May 30 2013 04:17pm

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
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STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

EDMUND G. BROWN Jr., Governor

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DIVISION OF ENGINEERING SERVICES
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