



INDUSTRIAL COATINGS INC.

A NORTH AMERICAN COATINGS COMPANY

April 15, 2015

VIA FAX & MAIL

Attention: John C. McMillan
Deputy Division Chief
Department of Transportation
Division of Engineering Services
Office Engineer, MS 43
1727 30th Street
P.O. Box 168041
Sacramento, CA 95816-8041

Reference: Contract No. 07-1W2404
Construction on State Highway In Los Angeles County In Los Angeles At Elysian
Viaduct
In District 07 On Route 5
07-LA-5-20.3
Project ID 07000231166
Federal-Aid Project ACNHPI-000-5(107)E

Subject: Bid Protest Response

CL Industrial Coatings, Inc. (CLIC) is providing additional information for the bid protest that the apparent low bidder Liberty Maintenance Inc. DBA Ohio Liberty Maintenance Inc. (Liberty) for the Caltrans Contract No. 07-1W2404 Construction on State Highway In Los Angeles County In Los Angeles At Elysian Viaduct project has listed a DBE that does not qualify for the 60% material credit, as stated in Liberty's DBE documents, per the project specifications for the following reasons listed below.

Contractors have the ability to purchase the specified PWB paint materials directly from several manufacturers that produce the PWB paint without the requirement or need of a regular dealer. For example, Stiles Paint Manufacturer and Triangle Coatings both sell directly to contractors without going through a regular dealer or distributor. Liberty has the ability to purchase the paint directly from the manufacturers as well but has chosen to buy paint through Anderson in an attempt to qualify for DBE participation. Simply put, Anderson Paint Store, LLC (Anderson's) role in this project/situation is only as an extra participant in a transaction and as a pass-through entity in order for Liberty to receive DBE participation credit. Anderson is not performing a commercially useful function. In this situation, as stated in CLIC's previous protest letter, by using Anderson as the DBE for paint supply, Liberty would only receive DBE participation credit for fees, commissions, and charges for assistance in the procurement and delivery of materials, and or supplies, not the 60% credit or \$330,000 claimed by Liberty since they could purchase the material direct from the manufacturer.



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Also consider for future projects that if the 60% credit is allowed in this type of situation, any DBE that has a store, warehouse, or other establishment that decides to stock and sell a few gallons of "general character" paint would qualify as a "regular" dealer when in reality they are just an extra participant in a transaction since the contractor could buy directly from the manufacturer eliminating "the middle man". This would severely undermine the intent of the regulations of the DBE Program.

Based on the above reasons, Liberty's listing of Anderson as a DBE under Bid Item 11 for a total of \$330,000 of claimed DBE participation should be disallowed thus rendering Liberty as a non-responsive bidder. The claimed DBE participation of \$732,950 minus the disallowed \$330,000 equals \$402,950 of claimed DBE participation. This equates to 2.5% DBE participation which fails to meet the DBE 4% goal requirement for this project.

Please call me if you have any questions concerning the above.

Sincerely,
CL INDUSTRIAL COATINGS, INC.

A handwritten signature in black ink, appearing to read 'Rick Suttles', with a long horizontal line extending to the right.

Rick Suttles
Project Manager



11650 Western Ave, Stanton, CA 90680

Phone: (562) 285-6520

Fax: (714) 892-7691

FACSIMILE TRANSMITTAL

TO:

Name: John C. McMillan

Fax No. 916-227-6282

Company: Caltrans Office Engineer

Location

FROM:

Name: Rick Suttles

Company: CL Coatings, Inc dba CL Industrial Coatings, Inc

Email: rsuttles@clcoatings.us

TOTAL NUMBER OF PAGES: 3

REFERENCE: Caltrans Contract No. 07-1W2404

MESSAGE:

Please see attached Bld Protest

If facsimile failure occurs, please call (562) 285-6520