

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER, MS 43

1727 30th STREET

P. O. BOX 168041

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6300

FAX (916) 227-6282

TTY 711

*Flex your power!
Be energy efficient!*

May 30, 2013

Facsimile: (951) 352-4300

Brian M. Skajem, President
Western Structures
6005 Tyler Street
Riverside, CA 92503

07-1W2504
07-LA-10, 60-14.3/18.0, 0.0/0.3
B.O. 04/18/2013

Dear Mr. Skajem:

The Department of Transportation (Caltrans) received the attached letter dated May 6, 2013, from Western Structures protesting the Disabled Veteran Business Enterprise (DVBE) Summary submitted by Highland Construction, Inc. (Highland). The protest alleges that Highland listed USC Supply as a DVBE subcontractor in order to take advantage of the DVBE participation goal. Western Structures requests Caltrans find Highland nonresponsive.

Caltrans did not complete an evaluation of this protest since it was received after the contract was awarded to Highland.

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

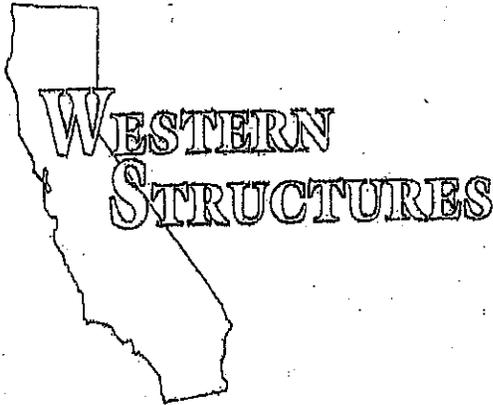
Sincerely,

A handwritten signature in black ink, appearing to read "John C. McMILLAN".

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

Attachment

cc: Angela Shell
Christian Sam



GENERAL ENGINEERING CONTRACT
DVBE/SBE #60085
Lic. #707211

May 06, 2013

John McMillan, Deputy Division Chief
Mulissa Smith, Contract Branch Chief
Division of Engineering Services
Office Engineer, MS 43
1727 30th Street
P.O. Box 168041
Sacramento, CA 95816-8041

Attn: Small Business/DVBE
Reference: Contract No. 07-1W2504

Subject: Protest of Bid.

Gentlemen,

Western Structures would like to submit a protest of the DVBE submittal from Highland Construction, Inc for the above referenced Project.

The bid turned in by Highland Construction Inc on 04-18-2013, lists USC Supply per DVBE submittal form DES-OE-O102.5 as a partial material vendor for bid items #10 and #12 for the total dollar amount of \$55,034.10 and a total claimed participation of 3.35%. The bid items listed on USC Supply proposal dated 4/18/13 identifies the proposed joint seal material to be supplied by USC Supply for this project as WABO Silicone Seal 50.72oz cartridge kit on its proposal. USC Supply further details Contractor responsible for Job Site Unloading on its quote. Watson Bowman Acme (Wabo) is the manufacturer of Wabo® Silicone Seal 50.72oz cartridge kit used for Joint Seal Installation. Watson Bowman quotes and sells its products to contractors direct without utilizing vendors as go betweens or extra participants. See attached quote from WABO 4/18/2013 in reference to project 07-1W2504.

Per Military and Veterans code section 999.2(b) and section (i) A person or an entity

6005 Tyler St., Riverside – California 92503 – Phone (951) 352-4300 – Fax (951) 352-4301

is deemed to perform a "commercially useful function" if a person or entity does all of the following:

(I) Is responsible for the execution of a distinct element of the work of the contract.

(II) Carries out the obligation by actually performing, managing, or supervising the work involved.

(III) Performs work that is normal for its business services and functions.

(IV) Is responsible, with respect to products, inventories, materials, and supplies required for the contract, for negotiating price, determining quality and quantity, ordering, installing, if applicable, and making payment.

(V) Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

(ii) A contractor, subcontractor, or supplier will not be considered to perform a "commercially useful function" if the contractor's, subcontractor's, or supplier's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of a disabled veteran business enterprise participation.

It appears that USC Supply simply mirrored Watson Bowman Acme's quote on its letterhead for this project using identical descriptions, lineal footage and cartridge quantities in its bid. USC Supply excludes all responsibility for job site unloading and will merely be an extra participant in the transaction of providing WABO Joint Seal material to Highland Construction Inc.

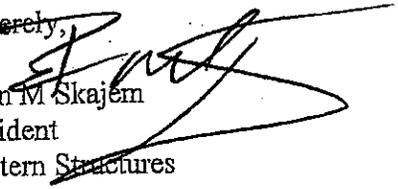
Highland Construction submitted its bid to the agency while identifying USC Supply as a DVBE subcontractor in order to take advantage of the DVBE participation goal. USC's described work on the project is to supply WABO Silicone Seal Cartridge kits as a material broker. USC's work as meeting any commercially useful function regarding the scope listed provides troubling and thus no DVBE participation should be considered.

USC Supply's role as a DVBE provides only the illusion of being commercially useful as USC is simply a middleman between the true commercial material supplier, Watson Bowman Acme, and Highland Construction. Highland Construction could easily purchase the quoted WABO material direct from Watson Bowman Acme with no issue. As USC's role provides no commercially useful purpose and is not necessary for the supply of the WABO joint seal material, Highland Construction Inc did not meet the required DVBE goal established by the Contract requirements.

For this reason, Highland Construction Inc's bid should be deemed non-responsive and its bid rejected.

Thank you in advance for your consideration in this matter.

Sincerely,


Brian M. Skajem
President
Western Structures



USC Supply
 12305 Locksley Lane
 Auburn, CA 95602

Office 530-273-1639
 530-887-8225
 Fax 530-273-1740
 530-882-8221

projects@uscsupply.net
 www.uscsupply.net

A Division of United Synergy Corporation

Name / Address	Ship To	Estimate
Department of Transportation 1120 N Street Sacramento, CA 95814	07-1W2504 Los Angeles County	

Date	Term	Estimate #	Product
4/18/2013	Net 30	2013-363	

Item	Description	Qty	UOM	Rate	Total
10	JOINT SEAL (MR 1/2") 3419 LP	360	ea	56.10	20,196.00T
	WABO SILICONE SEAL 50.72oz. CARTRIDGE KIT				
12	JOINT SEAL (MR 1") 4090 LP	540	ea	56.10	30,294.00T
	WABO SILICONE SEAL 50.72oz. CARTRIDGE KIT				
	Shipping to be determined			0.00	0.00
	Contractor Responsible for Job Site Unloading Capabilities			0.00	0.00

+Prices Quoted are Valid for 30 Days from estimate date unless USC Supply receives a price increase.

Subtotal	\$50,490.00
Sales Tax (9.0%)	\$4,544.10
Total	\$55,034.10

BID QUOTATION



Watson Bowman Acme Corp
 95 Pineview Drive
 Amherst, NY 14228

DATE: 4-17-13

REF # CA-131053

Phone 1-800-677-4922
 Fax 1-716-891-8239

www.wbacorp.com

TO: PROSPECTIVE BIDDER

ATTN:
 PHONE:
 FAX:
 EMAIL:

PROJECT: 07-1W2504
 COUNTY: Los Angeles
 BID DATE: 4/18/2013

We are pleased to submit this quotation for your acceptance. ANY CONTRACT ARISING FROM THIS QUOTATION SHALL BE EXPRESSLY LIMITED TO THE WBA TERMS AND CONDITIONS OF SALE AVAILABLE UPON REQUEST OR BY VISITING OUR WEBSITE AT www.wbacorp.com. Your acceptance of this quotation shall be deemed an acceptance of the these terms and conditions unless otherwise expressly consented to in writing by Watson Bowman Acme Corp (WBA). We reserve the right to modify or withdraw the offer at any time. Raw material pricing used in this quotation is based upon current market material costs plus applicable surcharges as of the quote date identified above. Watson Bowman Acme reserves the right to revise pricing of any items identified herein upon notice to proceed to account for raw material price increases beyond its control. This quotation shall remain open for a period of 15 days from the quote date identified above.

ITEM	DESCRIPTION	QUANTITY	UNIT OF MEASURE	UNIT PRICE	TOTAL
10 - 619081	Joint Seal (MR 1/2")	3418	LF		
	Wabo@SiliconeSeal	380	50.72 oz cartridge kit	\$ 51.00	\$ 18,380.00
12 - 519088	Joint Seal (MR 1")	4090	LF		
	Wabo@SiliconeSeal	540	50.72 oz cartridge kit	\$ 51.00	\$ 27,640.00
13 - 519001	Joint Seal (MR 1 1/2")	11187	LF		
	Wabo@CompressionSeal WA-375	11187	LF 105 gal	\$ 22.00	\$ 246,114.00
14 - 619100	Joint Seal (MR 2")	3317	LF		
	Wabo@CompressionSeal WA-500	3317	LF 32 gal	\$ 39.00	\$ 129,363.00
	Wabo@PrimaLub Adhesive	142	Gallon	\$ 80.00	\$ 11,360.00
11 - 044221	Joint Seal (MR 2 1/2")	674	LF		
	Wabo@SPS System SPS-400	674	LF u/	\$ 24.00	\$ 16,176.00
	Estimated Shipping & Handling via Speed	3	Truck	\$ 8,500.00	\$ 25,500.00
TOTAL:					\$ 474,413.08

F.O.B. Place of Shipment; 2% 20 days; Net 30 Days; 1.5% month service charge on past due accounts. Price firm for delivery up to 6 months from quote date or as noted within this quotation; add 10% or percentage as noted within this quotation for each successive six (6) month period of time. Prices do not include sales/and/or use taxes. ORDER ACCEPTANCE IS SUBJECT TO CREDIT REVIEW



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

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

May 30 2013 04:19pm

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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JCM
JOHN C. McMILLAN
Deputy Division Chief
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Division of Engineering Services

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cc: Angela Shell
Christian Sam