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

WESTERN STRUCTURES

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®SiliconeSeal 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

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USC Supply
12305 Locksley Lane
Auburn, CA 95602
projects@uscsupply.net
www.uscsupply.net
A Division of United Synergy Corporation

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

Estimate

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

Date	Terms	Estimate #	Project
4/18/2013	Net 30	2013-363	

Item #	Description	Qty	U/M	Rate	Total
10	JOINT SEAL (MR 1/2") 3419 LF WABO SILICONE SEAL 50.72oz. CARTRIDGE KIT	360	ea	56.10	20,196.00T
12	JOINT SEAL (MR 1") 4090 LF WABO SILICONE SEAL 50.72oz. CARTRIDGE KIT	540	ea	56.10	30,294.00T
	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

Phone 1-800-677-4922
Fax 1-716-691-9239

www.wbacorp.com

DATE: *4-17-13*

REF # *CA-131053*

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 indentified above. Watson Bowman Acme reserves the right to revise pricing of any items indentified 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 indentified above.

ITEM	DESCRIPTION	QUANTITY	UNIT OF MEASURE	UNIT PRICE	TOTAL
10 - 519081	Joint Seal (MR 1/2") Wabo®SiliconeSeal	3419 360	LF 50.72 oz cartridge kit	$ 51.00	$ 18,360.00
12 - 519088	Joint Seal (MR 1") Wabo®SiliconeSeal	4090 540	LF 50.72 oz cartridge kit	$ 51.00	$ 27,540.00
13 - 519091	Joint Seal (MR 1 1/2") Wabo®CompressionSeal WA-375	11187 11187	LF LF 10 5 gal	$ 22.00	$ 246,114.00
14 - 519100	Joint Seal (MR 2") Wabo®CompressionSeal WA-500 Wabo®PrimaLub Adhesive	3317 3317 142	LF LF 32 gal Gallon	$ 39.00 $ 80.00	$ 129,363.00 $ 11,360.00
11 - 044221	Joint Seal (MR 2 1/2") Wabo®SPS System SPS-400	674 674	LF LF 4/	$ 24.00	$ 16,176.00
	Estimated Shipping & Handling via Speed	3	Truck	$ 8,500.00	$ 25,500.00
				TOTAL:	$ 474,413.00

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 8 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

BASF
The Chemical Company