

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER

1727 30th STREET, MS-43

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6299

FAX (916) 227-6282

www.dot.ca.gov/hq/esc/oe

*Flex your power!
Be energy efficient!*

September 18, 2013

Facsimile: (800) 750-9094

Grace Moreno
Baltazar Construction, Inc.
236 E. Arrow Hwy
Covina, CA 91722

07-3X4104
07-LA-2-32.5
B.O. 08/01/2013

Dear Ms. Moreno:

The Department of Transportation (Caltrans) received attached letter from Baltazar for Contract 07-3X4104 dated August 29, 2013, in response to a non-responsive finding.

Baltazar is requesting clarification of the 2010 Standards Specification language concerning column 3 of Subcontractor List form. In addition, the protest states that error was made in column 3, by listing percentages that are representative of the total contract bid, rather than the percent of the bid item(s) subcontracted is not a substantial deviation and is inconsequential to the bid.

Caltrans 2010 Standard Specifications, Section 2-1.33C Subcontractor List states in part... "The Subcontractor List must show the name, address, and work portions to be performed by each subcontractor listed. Show work portions by bid item number, description, and percentage of each bid item subcontracted." The percentages listed in the original Subcontractor List form represented the total bid, which included Baltazar's profit and overhead was not representative of the work to be performed by the subcontractors.

Caltrans receives many bids in response to its Highway Construction contracting needs. Each bid is accepted based on the face of the bid. Once a bid is submitted it cannot be changed. If Caltrans were to accept Baltazar's bid as submitted, the Department would have to make mathematical assumptions as to the percentage of work subcontracted. The nature of Public Contracting is highly competitive and any changes that the Department makes to a submitted bid would circumvent the competitive bidding process and creates an unfair advantage to Baltazar.

Based on the above explanation, Caltrans has not changed its position finding Baltazar's bid non-responsive and will proceed to award this contract to the lowest responsible bidder provided that all requirements are met.

Ms. Moreno
September 18, 2013
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If you have any questions, please contact Mulissa Smith, Contract Awards Branch Chief, at (916) 227-6228.

Sincerely,



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

Attachments



236 E. ARROW HWY
COVINA, CA 91722
(626) 339-8610 PHONE
(626) 339-8620 FAX
baltazarconstruction.incl@verizon.net
Contractors license # A B 797113

Mulissa Smith
Contract Awards Branch Chief
DEPARTEMENT OF TRANSPORTATION
DIV OF ENGINEERING SERVICES
OFFICE ENGINEER
1727 30TH STREET MS 43
SACRAMENTO, CA 95816-8041

August 29, 2013

RE: 07-3X4104, 07-LA-2-32.5 B.O. 08/1/2013

Dear Mulissa Smith

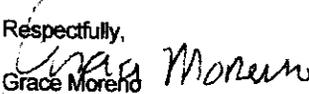
This letter is written in response to the letter of August 28, 2012 informing Baltazar Construction that its bid was nonresponsive because it failed to submit the Subcontractor List. Baltazar objects to the determination that its bid was nonresponsive.

First, Caltrans 2010 Standard Specifications Section 2-1.33C Subcontract List is not clear as to the percentages that are to be listed in column 3. The language of the bid document and the language from the specification simply request a percentage of the subcontracted work which was listed by Baltazar. However, it appears that what was intended by this language was a listing of the percentage of the line item or bid item that the subcontractor will perform rather than a percentage of the total contract that will be performed by the Subcontractor. It was only after consulting with several individuals with substantial construction expertise that we were able to even understand the nature of the information sought by Caltrans.

Second, and critically important to this issue, the information provided with the entire bid package clearly advised Caltrans of the percentage of work to be completed by the Subcontractor. The Subcontractor's bids were included as part of the package and so was the detailed budget for each bid item, from these documents it would be simply a mathematical calculation to determine the percentage of work for the bid item to be completed by each of the subcontractors. The deviation in Baltazar's bid is not substantial, and in fact it is inconsequential as it could not affect the amount of the bid nor provide Baltazar with an unfair bidding advantage. It is obvious that the bidding deviation could not have been a vehicle for favoritism, does not affect the amount of the bid, influence potential bidders to refrain from bidding or affect Caltrans ability to make bid comparisons. It is my understanding that these are the factors that California courts considering when determining if a bid deviation is substantial or inconsequential.

Baltazar hereby requests that Caltrans waive the inconsequential and minor bid error since all of the necessary information was provided with Baltazar's bidding documents as a whole. Thank you for your timely consideration of this objection.

Respectfully,


Grace Moreno

2-1.31–2-1.32 RESERVED**2-1.33 BID DOCUMENT COMPLETION****2-1.33A General**

Complete forms in the *Bid* book. Submit the forms with your bid.

On the Subcontractor List you may either submit the percentage of each bid item subcontracted with your bid or fax the percentage to (916) 227-6282 within 24 hours after bid opening.

Except for the percentage of each bid item subcontracted, do not fax submittals.

2-1.33B Bid Item List and Bid Comparison

Submit a bid based on the bid item quantities the Department shows on the Bid Item List.

For a lump sum based bid, the Department compares bids based on the total price.

For a unit price based bid, the Department compares bids based on the sum of the item totals.

For a cost plus time based bid, the Department compares bids based on the sum of the item totals and the total bid for time.

2-1.33C Subcontractor List

On the *Subcontractor List*, list each subcontractor to perform 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.).

The *Subcontractor List* must show the name, address, and work portions to be performed by each subcontractor listed. Show work portions by bid item number, description, and percentage of each bid item subcontracted.

2-1.33D Opt Out of Payment Adjustments for Price Index Fluctuations

You may opt out of the payment adjustments for price index fluctuations specified in section 9-1.07. To opt out, submit a completed *Opt Out of Payment Adjustments for Price Index Fluctuations* form with your bid.

2-1.33E Reserved**2-1.34 BIDDER'S SECURITY**

Submit your bid with one of the following forms of bidder's security equal to at least 10 percent of the bid:

1. Cash
2. Cashier's check
3. Certified check
4. Bidder's bond signed by a surety insurer who is licensed in California

If using a bidder's bond, you may use the form in the *Bid* book. If you do not use the form in the *Bid* book, use a form containing the same information.

2-1.35 SSPC QP CERTIFICATION PREAMWARD QUALIFICATION

Submit the SSPC QP certification required under section 59-2.01D(1) with your bid. Failure to submit the certification results in a nonresponsive bid.

2-1.36 RESERVED**2-1.37 BID SUBMITTAL**

Submit your bid:

1. Under sealed cover
2. Marked as a bid
3. Identifying the contract number and the bid opening date

If an agent other than the authorized corporation officer or a partnership member signs the bid, file a Power of Attorney with the Department either before opening bids or with the bid. Otherwise, the bid may be nonresponsive.

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

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

Sep 19 2013 11:11am

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
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EDMUND G. BROWN Jr., Governor



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