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!

June 24, 2013

Facsimile: (909) 982-8663

Michael G. Porteous, Owner
MGP Construction
P.O. Box 355
Upland, CA 91786

08-0R8604
08-SBd-38-51.9
B.O. 05/09/2013

Dear Mr. Porteous:

The Department of Transportation (Caltrans) received the attached letter dated May 22, 2013, from MGP Construction (MGP) protesting the bid documents submitted by Coppertop Enterprises, Inc. (Coppertop) and TW Contracting, Inc for contract 08-0R8604 on May 9, 2013. The protest alleges that Coppertop failed complete both the Subcontractor List and the Disabled Veteran Business Enterprise (DVBE) Summary forms and further alleges that TW is not certified as a Small Business firm with the Department of General Services (DGS). Additionally, TW listed for credit on its DVBE Summary form Linear West (Linear) to perform work described as electrical. MGP alleges that Linear is only licensed as a Class B General Building Contractor and cannot perform electrical work. MGP requests Caltrans find Coppertop and TW nonresponsive and award the contract to MGP.

Caltrans did not complete an evaluation of this protest with regards to Coppertop since the bid submitted by Coppertop was found nonresponsive. The Office of Business and Economic Opportunity's Contract Evaluation Unit (CEU) conducted a review of the Small Business certification submitted by TW and determined that the certification is not applicable with state contracts that require the DGS certification. Therefore, the small business preference for TW was disallowed. CEU also determined that Linear is certified as a DVBE firm with the work codes to perform electrical; however, Linear only holds an active Class B License. As such, TW is not eligible for award of this contract and Caltrans will proceed to award the contract to the lowest responsible bidder provided that all requirements are met.

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

Sincerely,

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

Attachment

MGP CONSTRUCTION

P. O. BOX 355

UPLAND, CA 91785

BID/AWARD PROTEST

VIA FACSIMILE (916)227-6282

May 22, 2013

Department of Transportation
Division of Engineering Services
Office Engineer, MS 43
P.O. Box 168041
Sacramento, CA 95816-8041

Project: Contract Number: 08-0R8604, 08-SBd-38-51.9, Bid Open 5/9/13

Dear Sir/Madame:

MGP Construction hereby submits our request to extend award period if necessary.
MGP Construction also submits our written protest to contract No. 08-0R8604 being awarded to Coppertop Enterprises Inc. or T W Contracting Inc. Apparent low bidders No. 1 and 2.

In performing our routine due diligence and relying on the Post-Bid information you have posted, MGP Construction feels that it should be considered the lowest responsive and responsible bidder for the following reasons:

Coppertop Enterprises Inc.

- Subcontractor list DES-OE-0102.2 (REV 3/2011)

Column 3 is incomplete, this form states in part "Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid"

- Certified DVBE summery DES-OE-0102.5 (REV 3/2008)

Total bid amount is $0.00 and Total Claimed Participation is 0%. Section 2-1.15, of the Caltrans 2010 Standard Specifications, DISABLED VETERAN BUSINESS ENTERPRISES, which states in part:

"Meet the goal shown on the Notice to Bidders" and further states "Complete and submit the Certified DVBE summery Form"

In this case neither the goal shown on the Notice to Bidders or the Submission of the completed certified DVBE summery form was done, which should result in a nonresponsive bid.

- Section 2-1.35, of the Caltrans 2010 Standard Specifications, SSPC QP CERTIFICATION PREAWARD QUALIFICATION, as amended by the revised standard specifications dated 02-22-13 which states in part "Submit proof of each required SSPC QP certification with your bid or fax it to (916) 227-6282 no later than 4:00 p.m. on the 2nd business day after bid opening. Failure to do so results in a nonresponsive bid."

SSPC QP Certification was not provided. This should result in a nonresponsive bid.

T W CONTRACTING INC.

- Bid Item List

Total Bid $2,117,594.00 was this an addition error? The percentages on the Subcontractor List, Certified DVBE Summary, Certified Small Business Listing For The Non-Small Business Preference, seem to indicate that the intended total was $2,117,594.00 not the revised $1,481,616.00. This would result in a different finishing position for the bid.

- Request for Small Business Preference or Non-Small Business Preference DES-OE-0102.7(REV 02/2010)

Caltrans bid summary indicates that Non-Small Business Preference was claimed, this does not appear to be the case and this Preference should not be applied. This would result in a different finishing position for the bid.

Small Business Preference was claimed using certification Number 238910. This number does not exist in the DGS data base therefor this Preference should not be applied. This would result in a different finishing position for the bid.

- Certified DVBE Summary DES-OE-0102.5(REV3/2008)

Linear West Inc. is listed as providing Electrical, DGS as well as Contractors State License Board indicate that Linear West Inc. is licensed as a Class B General Building Contractor.

Business & Professions Code, Division 3, Chapter 9. Contractors, Article 4. Classifications. Section 7057. (b). States in part (...A general building contractor shall not take a subcontract involving trades other than framing or carpentry, unless the subcontract requires at least two unrelated trades or crafts other than framing or carpentry, or unless the general building contractor holds the appropriate license classification) Linear West does not hold the appropriate license classification therefore is ineligible to execute a contract to provide electrical work. They cannot be used for electrical to gain DVBE credit, the total participation needs to be adjusted to 0% Section 2-1.15, of the Caltrans 2010 Standard Specifications, DISABLED VETERAN BUSINESS ENTERPRISES, which states in part:

"Meet the goal shown on the Notice to Bidders" In this case the goal shown on the Notice to Bidders was not met, which should result in a nonresponsive bid.

- Certified DVBE Summary DES-OE-0102.5(REV3/2008), Certified Small Business Listing for Non-Small Business Preference DES-OE-012.8(REV 2/2011)

The total dollar amount on the two forms is $ 1,523,421.00 yet the total bid on the Bid Summery indicates $1,481,616.00 both totals can't be correct. This would result in a different finishing position for the bid.

- Certified Small Business Listing for Non-Small Business Preference DES-OE-012.8(REV 2/2011)

T W Contracting Inc. list itself as a Small Business, as previously stated DGS unable to confirm this ID number.

- Section 2-1.35, of the Caltrans 2010 Standard Specifications, SSPC QP CERTIFICATION PREAWARD QUALIFICATION, as amended by the revised standard specifications dated 02-22-13 which states in part "Submit proof of each required SSPC QP certification with your bid or fax it to (916) 227-6282 no later than 4:00 p.m. on the 2nd business day after bid opening. Failure to do so results in a nonresponsive bid."

SSPC QP Certification was not provided. This should result in a nonresponsive bid.

Thank you for your consideration.

Sincerely,

Robert Andrade
Project Coordinator
MGP Construction (909) 982-2364
E-Mail robandrade@verizon.net

Attachments:

Coppertop Enterprises Inc.

- Subcontractors List
- Certified DVBE Summary

T W Contracting Inc.

- Bid item List, Subcontractor List, Certified DVBE Summary, Certified Small Business Listing For The Non-Small Business Preference
- Request for Small Business Preference or Non-Small Business Preference, DGS printout indicating ID 238910 not found

- DGS Profile for Linear West Inc., Contractors License Detail from Contractors State License Board, Excerpt of Business And Professions Code as provided by Contractors State License Board RE: B License General Building Contractor.

TRANSMISSION VERIFICATION REPORT

TIME : 06/24/2013 17:12
NAME : CONTRACT & AWARDS
FAX : 9162276282
TEL : 9162276282
SER.# : BROK4J974370

DATE,TIME	06/24 17:10
FAX NO./NAME	919099828663
DURATION	00:01:23
PAGE(S)	05
RESULT	OK
MODE	STANDARD ECM

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

EDMUND G. BROWN Jr., Governor

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