

December 3, 2014

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
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ATTN: Mr. John C. McMillan
Deputy Division Chief

Subj: 08-1C3704 RT 95 IN RIVERSIDE COUNTY NEAR BLYTHE FROM 0.2 MILES SOUTH OF ROUTE 10/95 TO 0.7
MILE SOUTH OF LYE ROAD
FEDERAL PROJECT NO. ACSTP-P095(027)E

Re: REBUTTAL LETTER TO PROTEST RESPONSE SUBMITTED BY SKANSKA USA CIVIL WEST CALIFORNIA DISTRICT
INC (SKANSKA)

Dear Mr. McMillan,

Please consider this letter as brief rebuttal to the Protest Response submitted by SKANSKA.

Please also consider this letter to be formal reaffirmation or support of the protest of the bid submitted by SKANSKA, the apparent low bidder on the subject project. The bid turned in by SKANSKA is in fact, nonresponsive and therefore must be rejected based on the Department's bidding requirements, strictly enforced policies and governing applicable Federal Regulations and recently set precedence. Chester Bross Construction Company is the 3rd lowest bidder on this project.

The protest response provided by SKANSKA does not refute the facts presented. SKANSKA has not countered with any definitive contentions negating the protest as submitted by Chester Bross.

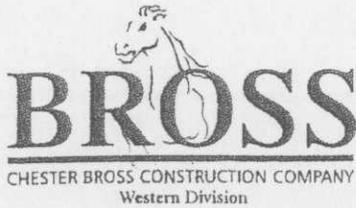
Caltrans of late, has in fact continued to support, by its own actions and documents, the facts and reasons for finding the SKANSKA bid nonresponsive for exact reasons set forth in the protest.

Chester Bross has no interest in making a public argument with SKANSKA with respect to the incorrect SKANSKA assertion that Chester Bross has a lack of understanding regarding Subcontractor List form instructions. Chester Bross will clarify however, that it does in fact, possess a clear and educated understanding of the pertinent governing provisions.

The Protest as submitted, makes reference to the Caltrans letter dated October 30, 2014 as necessary backup and evidentiary support to the facts outlined therein. The SKANSKA effort to dismiss the relevance is futile.

The facts are clear, SKANSKA impermissibly changed the scope of work to be performed by its subcontractors.

Caltrans has substantiated these contentions on more than one occasion, and in so doing, has established precedence and concurrence with governing regulation protocol.



The Caltrans 04-2G8604 letter previously referenced and provided, makes clear the fact that the Department considers a descriptive title utilized without any reference to partial, portion or the like, to represent 100% of the associated work. By the same letter, had the contractor not included the reference to partial, the Department would have ruled to accept the bid as lacking the reference clearly indicates 100%.

In short, Caltrans has clarified, without ambiguity, and established its resolve that if the word partial or similar meaning is utilized in conjunction with a given item of work as the description of portion of work on the bid day Subcontractor listing, the 24 hour subcontractor listing for the same portion of work must be less than 100%. Reciprocally, if partial or similar meaning is not utilized in conjunction with a given item of work as the description of portion of work on the bid day Subcontractor listing, the 24 hour subcontractor listing for the same portion of work must be 100%. These facts are a matter of record.

As provided and made clear by the Department, any deviation from the bid day and the 24 hour Subcontractor listing as outlined immediately above, will ***"constitute an improper change to the Subcontractor's List form."*** As such, the bid is considered nonresponsive.

The fact remains that on the bid day Subcontractor List, SKANSKA, on numerous items for various subcontractors, did not utilize a reference of partial, portion etc. on given descriptions, hence, these items are and must be considered by the Department to be 100%. However, SKANSKA, on its 24 hour Subcontractor List, effectively and impermissibly made changes by listing less than 100% under the Percentage of bid item subcontracted, for numerous items previously submitted on bid day to be 100%. These are clearly changes, and are impermissible, and are not allowed.

The Department, enforcing its strictly enforced bidding requirements, policies and governing applicable Federal and State Regulations must notify SKANSKA, that *"its bid is nonresponsive"* and *"Based on the above, Caltrans will proceed to award the contract to the lowest responsible bidder."* Any action otherwise would be in direct contradiction to previous Caltrans mandates and actions in direct support of these facts.

Conclusion

Based on the clear facts, references and information presented herein, governing regulations, specifications, law, and Caltrans enforcement precedence, the bid provided by SKANSKA must be rejected as nonresponsive.

The facts are clear and irrefutable, the changes SKANSKA has made from its bid day Subcontractor List to its 24 hour Subcontractor List constitute an improper change to the Subcontractor's List form. As such, there is no alternative other than to notify SKANSKA that its bid is nonresponsive and proceed to award the contract to the lowest responsible bidder.

Based on the information presented herein, it is respectfully and formally requested that the Department uphold and validate Chester Bross Construction's bid protest and reject the bid submitted by SKANSKA and proceed to award the contract to the lowest responsible bidder.

Please notify Chester Bross of your findings and final decision at your earliest possible convenience.

Thank you for your attention to this matter and please feel free to contact me if you have any questions.

Very truly yours,

Shawn N. Simmons

Western Division Manager

Sent Via Facsimile to (916) 227-6282

Cc:// McCarthy, Leonard & Kaemmerer, L.C.