

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER, MS 43
1727 30th STREET
P. O. BOX 168041
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6280
FAX (916) 227-6282
TTY 711



*Flex your power!
Be energy efficient!*

April 29, 2013

Facsimile: (209) 523-4927

Ed Berlier, Vice President
George Reed, Inc.
P.O. Box 4760
Modesto, CA 95352

10-0V9204
10-SJ-26.1/4.6,6.0/20.3
B.O. 03/27/13

Dear Mr. Berlier:

The Department of Transportation (Caltrans) received the attached letter dated April 19, 2013, from Teichert Construction (Teichert) protesting the Disadvantaged business Enterprise (DBE) Commitment form submitted by George Reed, Inc. Teichert alleges that George Reed commitment form fail to comply with the mandatory requirements for subcontractor and DBE listing. As such, Teichert requests that Caltrans find George Reed nonresponsive and award the contract to Teichert.

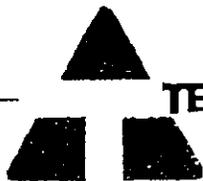
Please provide your response to Teichert's protest no later than May 2, 2013.

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

Sincerely,


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

Attachment



TEICHERT CONSTRUCTION

Established 1887

April 19, 2013

VIA FACSIMILE (916) 227-6282 AND U.S. MAIL

John C. McMillan
Deputy Division Chief
Office Engineer
Division of Engineering Service
State of California
Department of Transportation (Caltrans)
1727 30th, Bidder Exchange, MS 43
Sacramento, CA 95816-8041

Subject: Contract No. 10-0V9204
10-SJ-26-1.1/4.6, 6.D/20.3
Bids Opened: March 27, 2013
Bid Protest of Teichert Construction to Award of Contract to George Reed Inc.

Dear Mr. McMillan:

Teichert Construction ("Teichert"), the second lowest monetary bidder for the above referenced project, hereby protests the bid of the lowest monetary bidder, George Reed Inc. ("GRI"). As explained in more detail below, GRI's bid fails to comply with Caltrans' mandatory requirements for subcontractor listing, and OBE commitment submittal. These serious defects in GRI's bid are not the sort of minor irregularity that may be waived by Caltrans. Therefore, GRI's bid must be rejected as nonresponsive, and Teichert is the lowest responsive and responsible bidder eligible for award.

The Subcontractor List form states in part... "Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6282 within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid." (Emphasis added.)

Caltrans Bidder – DBE – Commitment form DES-OE-0102.10C states in part... "First Tier DBE Subcontractors ... must be consistent, where applicable, ... with the names and items of work in the "Subcontractor List" submitted with your bid." (Emphasis added.)

GRI's Subcontractor List, and DBE – Commitment forms fail to comply with the above requirements in at least two ways:

John C. McMillan
Deputy Division Chief
April 19, 2013
Page 2 of 3

Impermissible changes to value of subcontractor work identified with respect to KRC Safety Co. Inc.

GRI's Subcontractor List and DBE commitment form with respect to KRC Safety Co. Inc. ("KRC") are materially inconsistent. In its Subcontractor List, GRI identified KRC to perform 86.60% of bid item no. 3 – Traffic Control System. GRI's bid price for bid item no. 3 is \$585,505. Thus, GRI identified the value of the work subcontracted to KRC for Traffic Control is \$507,407.33. In contrast, in its DBE commitment form (and related paperwork) GRI changed the value of work subcontracted to KRC (for bid item no. 3) to \$111,765.00 or 19.09%.

In short, GRI (1) impermissibly changed KRC's percentage of work to be subcontracted in bid item no. 3 by submitting a DBE form inconsistent with its Subcontractor List; (2) impermissibly failed to provide complete information in columns 1 through 4 within the time specified when it changed its Col. 3 percentage for KRC from 86.60% to 19.09% with its DBE listing for bid item no. 3.

Impermissible dollar amount listed in DBE commitment form with respect to Janice Simas Paving Inc. dba Spirit Road Oils.

GRI's Bid Item List and DBE commitment form with respect to Janice Simas Paving Inc. dba Spirit Road Oils ("Spirit") are materially inconsistent. On bid day, GRI submitted a bid price for bid item no. 20 – Tack Coat of \$160.

In its DBE Commitment form GRI identified the value of Spirit's participation in this contract to be \$53,913.60. GRI only lists Spirit to perform work in bid item No. 20, work description: Tack Coat.

If GRI's bid price for bid item no. 20 is only \$160, GRI is overstating the DBE value of work for bid item no. 20 by \$53,753.60.

Once the \$53,753.60 is disallowed for item no. 20, GRI's DBE commitment falls below the 7% DBE goal to 5.70%. It is understood that GRI would then need to show adequate Good Faith Efforts. Both the 2nd and 3rd bidders met the goal, and GRI rejected DBEs listed by the 2nd and 3rd bidders.

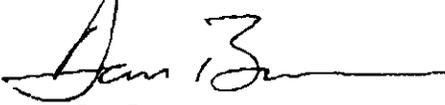
Summary

GRI's failure to properly complete the Subcontractor List and Caltrans Bidder – DBE – Commitment forms, both undermines the integrity of the public bidding process, and gave GRI a competitive advantage. Not properly completing the Subcontractor List gave GRI the opportunity to engage in the precise activity the subcontractor listing law was enacted to prevent. In addition, GRI had an unfair competitive advantage, in that by electing to change and identify a different percentage of work for KRC in its DBE form from what it listed on bid day, GRI had additional time to prepare its bid and obtain the most favorable subcontractor pricing that other bidders did not have.

John C. McMillan
Deputy Division Chief
April 19, 2013
Page 3 of 3

For the reasons stated above, Teichert respectfully requests that Caltrans deem GRI's bid non-responsive and award the contract to Teichert as the lowest responsive and responsible bidder.

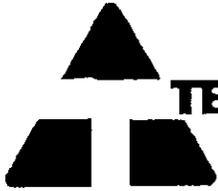
Sincerely,



Dan Brown
Estimating Manager of Teichert Construction

eb
Attachment

cc:
G. Johns, T. Corvello – Teichert Construction



TEICHERT CONSTRUCTION

Stockton Office
265 Val Dervin Parkway
P.O. Box 1118
Stockton, CA 95201-0118
209-983-2300
Fax: (209) 983-2375

FAX COVER SHEET

To: Office Engineer
COMPANY: State of California-Dept. of Transportation
FAX NUMBER: (916) 227-6282
PHONE NUMBER: N/A

FROM: Dan Brown
Estimating Manager

DATE: April 19, 2013

PAGES: 4 including Cover Sheet

RE: Contract No. 10-0V9204
10-SJ-26-1.1/4.6, 6.0/20.3
Bids Opened: March 27, 2013
Bid Protest of Teichert Construction to Award of Contract to George Reed Inc.

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

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

Apr 29 2013 03:32pm

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STATE OF CALIFORNIA - BUSINESS, TRANSPORTATION AND HOUSING AGENCY

EDMUND G. BROWN Jr., Governor

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