

(209) 944-9585 • FAX (209) 944-9569
LICENSE NO. 529261

May 12, 2015

State of California Department of Transportation
Division of Engineering Services
Office Engineer
1727 30th Street MS-43
P.O. Box 168041
Sacramento CA 95816-8041

Attention: Mr. John McMillan, Deputy Division Chief

Re: Contract 10-0X5404
10-SJ-5-41.7/45.9
Bids Opened: April 21, 2015
Non-Responsive Bid letter dated May 5, 2015

Dear Mr. McMillan:

Midstate Barrier, Inc. (MBI), the apparent low-bidder of the above Contract Bid opening, disagrees with, and protests the decision by Caltrans that our bid was non-responsive because the percentage of each bid item subcontracted was not submitted with our bid.

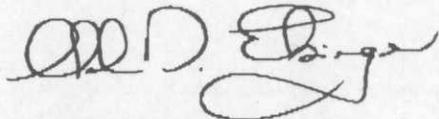
Your electronic bid form referenced Form DES-OE-0102.2B (REV 5/2014) which MBI utilized in the preparation of our bid. Please refer to our Attachment A. This form specifically instructs "The Bidder must submit within 24 hours of the bid opening, the bid item numbers with the percentages of the portion of work subcontracted." As evidenced by Attachment B, MBI submitted the required information within one hour of the bid opening.

It is true that when our bid was submitted electronically just before the 2pm deadline, we did receive an error message stating that our bid contained missing information related to the Subcontractor Listing. However, this is the same error message that has appeared on all the electronic bids we have submitted previously. It is the same error message we received just one month prior to this bid opening, when we submitted a bid on Contract 03-4M6704. We were the low bidder and received the award on the project. In comparing the bid forms and procedures, there were no changes in the bid format, no additional information supplied to the bidder that the electronic bidding procedures had changed, and no change in the error message itself. Both bids were accepted electronically.

MBI complied with the bid documents in utilizing the form represented by Attachment A. It appears that Caltrans was in the middle of changing the procedure of reporting percentages of listed subcontractors, but this change had not been fully incorporated into all applicable documents throughout the bidding process. MBI utilized the form and procedure indicated on the electronic bid documents. We request that the State reconsider their decision regarding this project and award it to the lowest responsible bidder, MBI.

We will extend our bid until a review and decision on this matter is made. Please feel free to contact me with any questions you may have regarding this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Clark D. Ebinger". The signature is fluid and cursive, with the first name "Clark" and last name "Ebinger" clearly distinguishable.

Clark D. Ebinger, President
MBI

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 10-0X5404 Project ID: 1012000303

Bidder Name: Midstate Barrier, Inc.

Bidder ID: VC0000013893

DES-OE-0102.2B(REV 5/2014)

Bidding Firm: Midstate Barrier, Inc.

List this sub? Yes

- 1) Business Name Farwest Safety, Inc.
 Location City Lodi State CA
 California Contractor License Number 523187
 CA Department of Industrial Relations' Registration Number 1000001371
 Portion of Work Subcontracted:

Item #	Description
2	Construction Area Signs
3	Traffic Control System(Partial)

List this sub? Yes

- 2) Business Name Mike Brown Electric Co.
 Location City Cotati State CA
 California Contractor License Number 306767
 CA Department of Industrial Relations' Registration Number 1000000469
 Portion of Work Subcontracted:

Item #	Description
20	Maintain Existing Traffic Management System(Partial)
21	Traffic Monitoring Station

ATTACHMENT A (2)

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
SUBCONTRACTOR LIST
DES-OE-0102.2B (REV 5/2014)

Bidding Firm: Midstate Barrier, Inc.

10-0X5404

Under Public Contract Code § 4100 et seq., the Bidder must set forth in the bid the name, the location of the place of business, the California contractor license number, and the portion of work of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

The Bidder must submit within 24 hours of the bid opening, the bid item numbers with percentages of the portion of work subcontracted.

Business Name and Location	California Contractor License Number (a)	Description of Portion of Work	Bid Items Numbers	Percentage of Bid Item Subcontracted
Farwest Safety, Inc. Lodi, CA	523187	Construction Area Signs Traffic Control System(Partial)	2	100%
			3	80%
Mike Brown Electric Co. Cotati, CA	306767	Maintain Exist. Traffic Mgt. System(Partial) Traffic Monitoring Station	20	50%
			21	100%

^a Not required on contracts with Federal-Aid.

ATTACHMENT B

TRANSACTION REPORT

APR-21-2015 TUE 02:59 PM

TX (MEMORY)

#	DATE	START TIME	RECEIVER	COM. TIME	PAGES	TYPE/NOTE	FILE
001	APR-21	02:59 PM	19162278282	0:00:18	1	SG3 OK	971
TOTAL				0:00:18	1		

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

SUBCONTRACTOR LIST

DES-OE-0102.2B (REV 5/2014)

Bidding Firm: Midstate Barrier, Inc.

10-0X5404

Under Public Contract Code § 4100 et seq., the Bidder must set forth in the bid the name, the location of the place of business, the California contractor license number, and the portion of work of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

The Bidder must submit within 24 hours of the bid opening, the bid item numbers with percentages of the portion of work subcontracted.

Business Name and Location	California Contractor License Number (C)	Description of Portion of Work	Bid Items Numbers	Percentage of Bid Item Subcontracted
Farwest Safety, Inc. Lodi, CA	523187	Construction Area Signs Traffic Control System(Partial)	2	100%
			3	80%
Mike Brown Electric Co. Cotati, CA	306767	Maintain Exist. Traffic Mgt. System(Partial) Traffic Monitoring Station	20	50%
			21	100%

MIDSTATE BARRIER, INC.

P.O. Box 30550
Stockton, CA 95213-0550
Office- 209-944-9565 Fax- 209-944-9569
License No. 529261

FAX COVER SHEET

Send To:	<u>California DOT</u>	From:	<u>Clark Ebinger</u>
		Office #	<u>209-944-9565 X-501</u>
Attn:	<u>John C. McMillan</u>	Fax #	<u>209-944-9569</u>
			<u>cebinger@midstatebarrier.com</u>

Fax:	<u>916-227-6282</u>	Pages:	<u>6</u>
Phone:	<u>916-227-6299</u>	Date:	<u>05/13/15</u>

Re: Contract No. 10-0X5404 , 10-SJ-5-41.7/45.9 , Bid Opening 4/21/2015

Protest of Non-responsive letter received 5/6/2015.

Thank You,

Clark Ebinger