



COFFMAN SPECIALTIES, INC.

GENERAL AND ENGINEERING CONTRACTORS

December 29, 2014

Sent *via* facsimile: 916 227-6282
and U.S. Mail

John C. McMillan, Deputy Division Chief, Office Engineer
California Dept. of Transportation
P.O. Box 168041, MS-43
Sacramento, CA 95816-8041

Re: Rte. 8/67 Separation, Caltrans Contract #11-275504
Protest of Finding Coffman Specialties, Inc.'s Low Bid Nonresponsive and of Award
to Contractor Other than the Lowest Bidder without Notice

Dear Mr. McMillan:

Coffman Specialties, Inc.'s ("Coffman") bid was responsive to the Contract bid documents. On December 23, 2014, Coffman found on the California Department of Transportation's ("Caltrans") website, a letter written by Caltrans dated December 19, 2014, allegedly sent to Coffman's office address and faxed to Coffman. As Admitted by Caltrans, the letter included a fax number that was not Coffman's, and the letter was never faxed to Coffman.

According to Mulissa Smith, of Caltrans' DES/Office Engineer, the December 19th letter was not placed in the mail to Coffman until December 22. It was received by Coffman today, December 29, 2014 (following the Christmas holidays and ensuing weekend).

The December 19th letter said Caltrans determined Coffman's bid was nonresponsive for the following reason:

Bid Items 9, 10 (Temporary Crash Cushion Module and Temporary Alternative Crash Cushion System) are covered under the elements of work described in the 2010 Revised Standard Specifications, Section 12 Temporary Traffic Control. During this same evaluation, Caltrans also found that Coffman included bid item 64 (Guardrail Delineator) in the work described as Construction Area Signs and Roadside Signs. The Guardrail Delineator is covered under Section 82, Markers and Delineators and as such, these items are not Construction Area Signs or Roadside Signs. Therefore, Caltrans agrees that Coffman improperly expanded the scope of work given to Statewide Traffic Safety & Signs making its bid nonresponsive on this basis.

Coffman's bid was responsive to the Bid documents. It did not enlarge the scope of Statewide Traffic Safety & Signs' intended scope of work. Caltrans' determination is arbitrary and without evidentiary basis.



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Caltrans, having given Coffman no prior notice of its intent to award, or if its finding that Coffman's bid is nonresponsive, awarded the contract to Hazard on December 23. This was in violation of Public Contract Code § 10345 (which states in relevant part):

(a) Whenever a contract is awarded under a procedure providing for competitive bidding, but the contract is not to be awarded to the low bidder, **the low bidder shall be given notice five working days prior to the award of the contract by telegram, electronic facsimile transmission, overnight courier, Internet transmission, or personal delivery.**

(1) Upon written request by any bidder who has submitted a bid, notice of the proposed award shall be posted in a place accessible by the general public, including any Internet site identified in the invitation for bids at least five working days prior to awarding the contract.

(2) **If, prior to the award, any bidder files a protest with the awarding state agency and the department protesting the award of the contract on the grounds that he or she is the lowest responsible bidder meeting the specifications for the contract, the contract shall not be awarded until either the protest has been withdrawn or the department has decided the matter.**

(3) **Within five days after filing the protest, the protesting bidder shall file with the department and the awarding state agency a full and complete written statement specifying the grounds for the protest.**

(c) The department shall establish written procedures for deciding protests under this section.
(Pub. Cont. Code § 10345) (Emphasis added.)

"[A] bidder determined to be nonresponsive is entitled to notice of that fact and is entitled to submit materials, in a manner defined by the District, concerning the issue of responsiveness. (*Taylor Bus Serv., Inc. v. San Diego Bd. of Educ.*, 195 Cal. App. 3d 1331, 1343 (Ct. App. 1987).)

Coffman hereby protests the determination of its bid to be nonresponsive. The award to Hazard, who is not the lowest bidder, was made without due notice and in violation of Public Contract Code § 10345. Caltrans must rescind its award to Hazard, and withhold from awarding the contract to anyone other than Coffman as the lowest bidder until the matter has been heard and then decided. A detailed statement in support of this protest will follow.

Very truly yours,


Angela J. Soldner
General Counsel