


COFFMAN SPECIALTIES, INC.

 GENERAL AND ENGINEERING CONTRACTORS

February 5, 2015

John C. McMillan, Deputy Division Chief
 Office Engineer
 California Dept. of Transportation
 P.O. Box 168041, MS-43
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 Sent *via* facsimile: (916) 227-6282
 e-mail: John.McMillan@dot.ca.gov
 and U.S. Mail

Malcolm Dougherty, Director
 California Dept. of Transportation
 1120 N. Street
 Sacramento, CA 94273-0001
 Sent *via* facsimile: (916) 653-5776
 e-mail: Malcolm.Dougherty@dot.ca.gov
 and U.S. Mail

Subject: Contract Number 11-275504; Route 67, San Diego River Bridge
Federal Aid Contract No. ACSTPNH-P067(071)E
Protest of Finding Bid Nonresponsive
Contract Number 11-407004; Route 8 East of Crestwood to Imperial County

Gentlemen,

Coffman Specialties, Inc. ("Coffman") has endeavored in earnest to work in partnership with Caltrans, including joint success on projects at Cajon Pass and Route 905, contracts totaling in excess of \$160 Million. However, Caltrans continues to act in ways that we find hard to explain.

As you are aware, Coffman was the lowest responsible bidder on the two projects listed above. Let us thank you in advance for the appropriate award of the Route 8 Crestwood Project; however, the determination of Coffman's bid as nonresponsive on the Route 67 Project (your letter dated January 9, 2015 regarding the protest and contract award) and award to the second lowest bidder, Hazard Construction Company ("Hazard"), approved as of January 12, 2015, was without merit. Caltrans letter was factually incorrect, misstated notice requirements, and failed to address the substantive issues in both letters dated November 3, 2014 and January 4, 2015. Coffman's bid documents (provided to your office) confirmed that Caltrans' staff's finding was incorrect. State and federal law requires that public agencies in competitive bids award to the lowest bidder – and to make every effort to do so in all circumstances.

On October 16, 2014, Coffman was the lowest bidder for the Route 67 Project (the "Project"). Our bid was improperly deemed nonresponsive sixty-three (63) days after bid opening and award was made to the next low bidder in direct violation of Public Contract Code, case law and federal statute; taking monies out of the pockets of Coffman employees, violating the rights of successful subcontractors that provided best value to the State, and costing California taxpayers nearly \$1 Million without reason, over a single Bid Item worth \$4,800 (0.047% of the contract amount). Unfortunately, these types of inconsistent and—more importantly—improper actions are recognized by Industry as promoted by Caltrans over the past few years, costing California millions in avoidable extra expenses.



John C. McMillan, Deputy Division Chief
Malcolm Dougherty, Director
California Dept. of Transportation
February 5, 2015
Page 2 of 9

-10-15A10:44 RCVD

Caltrans is required to administer the competitive bidding process in a fair and equitable fashion in strict accordance with Part 2 of the California Public Contract Code and Chapter 1 of Title 23 of the United States Code. Caltrans must award contracts to the lowest responsible bidder. (Pub. Cont. Code § 10180). (All subsequently cited code sections are to the California Public Contract Code unless otherwise stated.) “[T]o the maximum extent possible,” Caltrans must administer the bidding process in a uniform, consistent manner. (§ 102)

The express Legislative intent in enacting the Public Contract Code is:

- (a) To clarify the law with respect to competitive bidding requirements.
- (b) To ensure full compliance with competitive bidding statutes as a means of protecting the public from misuse of public funds.
- (c) To provide all qualified bidders with a fair opportunity to enter the bidding process, thereby stimulating competition in a manner conducive to sound fiscal practices.
- (d) To eliminate favoritism, fraud, and corruption in the awarding of public contracts.

(§ 100.) It is your duty (and those to whom you delegate responsibility) to ensure that the requirements and intent of Caltrans’ bidding process are upheld. By not awarding contracts to the lowest responsible bidder on this and in other procurements, you and your staff have acted outside the scope of your employment without legal authority.

Notice of Non-Responsive Bid: Violation of Coffman’s Rights to Defend and Protest Determination

Caltrans did not give Coffman notice of two important things: 1) that its bid was found nonresponsive; and 2) that Caltrans was awarding to a bidder other than the lowest responsible bidder.

Caltrans was required to give Coffman notice and the chance to be heard; but Caltrans failed to afford Coffman a due process opportunity to contest the finding. Your written response concerning lack of notice simply said that, since Coffman responded to Hazard’s protest, “Caltrans did not seek a second response.” Yet, when Hazard protested and Coffman responded, Caltrans had not yet made a determination. Indeed, the specific basis of the State’s decision (Bid Item 64 as it relates to subcontractor Statewide’s work description) was not even mentioned in Hazard’s protest. Hence, contrary to your assertion, Coffman never received notice of nonresponsiveness before Caltrans made its decision. Moreover, the award to Hazard was done on the day after Coffman received notice of the nonresponsive determination in direct violation of Public Contract Code.

Coffman’s Bid Was Responsive

In addition to Caltrans depriving Coffman due notice; Caltrans’ rejection of Coffman’s bid as “nonresponsive” was wrong for several reasons.

A. Caltrans was Obligated to Determine the Subcontractor’s Scope as of the Time Bid Before Caltrans could Reject the Lowest Responsible Bidder’s Bid.

Public Contract Code § 4104 requires listing subcontractors whose work exceeds one-half of 1 percent of the prime contractor’s total bid (or \$10,000, whichever is greater); and the “portion” of the work that each subcontractor will do. The sole purpose of the Subletting and Subcontracting Fair Practices Act (§ 4100, *et seq.*) (the “Act”), of which section 4104 is a part, is to prevent “bid

shopping” on the part of contractors, and “bid peddling” on the part of subcontractors, after the award of a public contract, and to give the awarding authority the opportunity to investigate and approve the initial subcontractors and any replacements, because “bid shopping” and “bid peddling” often result in poor quality of material and workmanship, deprive the public of the full benefits of fair competition among prime contractors and subcontractors, and lead to insolvencies, loss of wages to employees, and other evils (§ 4104)¹ and to provide a basis for the agency to decide if it should consent to substitution of subcontractors, if later requested.

It is incumbent upon Caltrans to look at available evidence concerning allegations of “non-responsiveness” relating to § 4104 and to give notice to the low bidder and an opportunity to be heard on the matter so as to satisfy the purpose and obligations of the Public Contract Code and federal statutes. In fact, what has happened is the subcontractors whose bids helped Coffman generate the lowest and what was legally the winning bid, were denied work by Caltrans for no reason.

It was impossible for Caltrans to determine Coffman’s bid nonresponsive for allegedly including subcontracted work outside the subcontractor’s “scope” without knowing the circumstances and facts relative thereto; but your office **failed** to do any of the following:

- request any information from Coffman about its bid.
- seek the relevant facts on the face of Coffman’s bid.
- seek substantive facts relating to Statewide’s quoted scope and price.
- contact Coffman for any explanation of its bid.
- request supportive information in support of the lowest bid.
- respond to the information and correspondence concerning the bid provided by Coffman.
- analyze the *portion* of Statewide’s bid.
- provide notice of the nonresponsive determination (faxing the letter to our competitor but not to Coffman).
- give Coffman adequate time to respond to the nonresponsive determination in violation of Coffman rights.
- provide substantive and meaningful reasoning to support Caltrans’ response to Coffman’s protest.
- provide any specific basis within the Public Contract Code for your determination that Coffman’s bid was nonresponsive because it “enlarged the scope” of a described portion of subcontracted work. (Nothing in the Bid Instructions forbid this when the alleged added work does not exceed one half of one percent of the contractor’s total contract price.)
- give substantive information in response to Coffman’s protest (even the wrong award date was referenced in your letter).
- analyze the requirement to list the portion of work as it relates to Item 64 “Guard Rail Delineation” (valued at less than ½ of 1 percent of the contract)

¹ Bid shopping is the use of the low bid already received by the general contractor to pressure other subcontractors into submitting even lower bids. Bid peddling is an attempt by a subcontractor to undercut known bids already submitted to the general contractor in order to procure the job. If there is evidence that the lowest responsible bidder did not engage in “bid shopping,” the purpose of § 4104 and the Act is satisfied.

The omissions listed above demonstrate Caltrans' failure to make this threshold examination in its inexplicable rush to deny the contract from the lowest responsible bidder.

B. Work Not Exceeding One Half of One Percent of the Contractor's Bid or \$10,000 (Whichever is Greater) Need Not Be Included in a Subcontractor's "Portion" of Work.

The Act contains certain restrictions relative to work valued at more than 0.5% of the contractor's total bid price. For example:

1. The Act requires a bid to list each subcontractor who will perform work, 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. (§ 4104)
2. The Act forbids subcontracting of any portion of work in excess of one-half of 1 percent of the prime contractor's total bid for which no subcontractor was designated in the original bid, except in cases of public emergency or necessity. (§ 4109)
3. If a prime contractor fails to specify a subcontractor for a portion of work exceeding one-half of 1 percent of the prime contractor's total bid, the prime contractor agrees that it is qualified to perform that portion itself, and that it will perform that portion itself. (§ 4106)
4. A prime contractor whose bid is accepted may not substitute a subcontractor in place of the subcontractor listed in the original bid, except with consent from the owner. (§ 4107)

- Nowhere does the Code forbid a prime contractor from subcontracting any portion of work that does not exceed 0.5 % without listing it in the Subcontractor list.
- Nowhere does the Code forbid a prime contractor from subcontracting a portion of work – after bid time – that was not part of an originally listed subcontractor's work.
- Nowhere does the Code require a prime contractor list subcontractors whose work is under 0.5 %.

Assuming arguendo that Caltrans' assertion is correct, and Bid Item 64 (0.047 % of Coffman's total contract price) was not part of Statewide's "portion" of work at bid time (it was); Coffman was not obligated to list a subcontractor to perform Item 64 because it did not exceed one-half of 1 percent of the total bid. And no law forbids Coffman from giving Item 64 to anyone, including Statewide, because Coffman had not subcontracted the work to a listed subcontractor.

Coffman's bid either 1) did include Item 64 in Statewide's described "portion" of work at bid time; or, if it didn't, then 2) Item 64 was a separate portion of work valued at less than 0.5 % that could have been performed by anyone, including Statewide. Coffman's bid is responsive in either scenario.

No one within Caltrans has ever been able to articulate *why* Caltrans considers a bid nonresponsive for merely adding an Item to a listed subcontractor's work in the 24 hour submittal. That is because, without a violation one of the statutes above, Caltrans' decision is indefensible.

C. Public Contract Code – "Portion of Work"

Section 4104 requires that a bid for the construction of streets or highways set forth:

(a) The name, the location of the place of business, and the California contractor license number of each subcontractor who will perform work, labor, or services to (or specially fabricate and installs a part of) the project, in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater; and

(b) The portion of the work that will be done by each subcontractor *under this act* [i.e., *each subcontractor performing work greater than 0.5% of the contract*].

Caltrans directs that Bid Items and percentages of subcontracted work be submitted within 24 hours after bid opening. (Such information is not statutorily required).

“Portion of work” as used in § 4104 is not defined. Section 4104 (b) says that **the bidding contractor defines each “portion.”** Section 4104 allows prime contractors to decide, in their discretion, the description used. This allows contractors to organize their bids in their own way (utilizing the terms they choose) and to carry their organizational method into the bid papers, leading to an efficient, competitive bid.

Bidders are given no parameters or instructions concerning how each “portion” must be defined. By law, if the Bid Instructions do not require something in the bid, a bid cannot be deemed nonresponsive for not including it. Yet, Caltrans’ staff members have been exercising free power to subjectively decide, in their own opinion and interpretation of the terms and the work involved, whether a bidder’s definition of each “portion” is good enough so as to be compatible with the Bid Items listed in the 24 hour submittal. If the reviewing staff member decides that it is not, Caltrans then decides if it wants to reject the bid as “nonresponsive” and deny award of the contract to the lowest responsible bidder. This practice directly violates a number of laws, including § 10180.

It is a long and well-established rule that where public contracts are required to be let through competitive bidding, **the proposals and specifications inviting such bids must be sufficiently detailed, definite and precise so as to provide a basis for full and fair competitive bidding upon a common standard and must be free of any restrictions tending to stifle competition.** (See *Baldwin-Lima-Hamilton Corp. v. Superior Court In & For City & Cnty. of San Francisco*, 208 Cal. App. 2d 803, 821 (Ct. App. 1962).) Federal-Aid contracts for construction must only be awarded on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility. **No requirement or obligation shall be imposed as a condition precedent to the award of a contract to such bidder for a project, or to the Secretary's concurrence in the award of a contract to such bidder, unless such requirement or obligation is otherwise lawful and is specifically set forth in the advertised specifications.** (23 U.S.C.A. § 112.) Without specific standards, a bidder is placed at a competitive disadvantage because the undisclosed standard undermines its ability to bid on a common basis, permitting Caltrans to manipulate the bid selection in favor of or against particular bidders.

Caltrans’ invitations for bids must be specific, but in the Route 67 bid, Caltrans did not do this. Coffman’s subcontractor, Statewide, quoted many items of work (as subs always do), including construction area signs, road signs, sign panels, crash cushions, alternative crash cushions, guard rail delineators, and message boards, etc.. Its scope of work was all the work contained in its quote at bid time accepted by Coffman. Since the Bid Instructions call for a ‘description’ of the “portion” of subcontracted work—not the full “scope of work”—Coffman described Statewide’s “portion” of

work as “Construction Area Signs and Roadside Signs” as it has always done. Such a description was proper and common. It was included in Coffman’s bid as Caltrans could have verified by the face of Coffman’s bid papers.

Coffman has listed the same Item (Guard Rail Delineators) using the same description “Construction Area Signs and Roadside Signs” (containing this Item) on numerous bids for 20 years. And Caltrans, for years, has accepted this description as including this Item. How could Coffman foresee that, this one time, the description would be unacceptable to Caltrans?

On numerous occasions, Caltrans has awarded contracts where the same description and included Item were used in the bid, most recently on Contract 08-472224. Caltrans’ assertion, suddenly, that listing Item 64 “Guard Rail Delineators” improperly “enlarged the scope” of Statewide’s work irreconcilably contradicts Caltrans’ past acknowledgment that the description includes the Item. Caltrans’ finding of nonresponsiveness based on its staff’s determination of what the subcontractor’s scope was (without considering that subcontractor’s actual quote) is a tactic to avoid the mandatory rule to award to the lowest responsible bidder. This practice is neither required nor allowed by law.

D. 24 Hour Submittal – No Rule Precludes “Enlarging” a Subcontractor’s Scope

Section 4104(b) calls for a bid to set forth the “portion of the work” that each listed subcontractor (performing work worth more than 0.5% of the contract price) will do. The Bid Instructions state:

2-1.10 SUBCONTRACTOR LIST

On the Subcontractor List form, list each subcontractor to perform work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Cont Code § 4100 et seq.).

For each subcontractor listed, the Subcontractor List form must show:

1. Business name and the location of its place of business.
2. For a non-federal-aid contract, its California contractor license number.
3. Portion of work it will perform. Show the portion of the work by:
 - 3.1. Description of portion of subcontracted work
 - 3.2. Bid item numbers for the work involved in the portion of work listed
 - 3.3. Percentage of the portion of work in each bid item listed

(Revised Standard Specs. Applicable to the 2010 Edition of the Standard Specs. § 2-1.10.)

The “description of portion of subcontracted work” is due at bid time; and under § 4104, Caltrans allows the Bid Items and percentages of work to be submitted up to 24 hours later.

The documented legislative purpose for allowing submission of the additional information *after* bid-time is to give contractors more time after the harried rush of the bid. The reason Caltrans asks for the extra information is for clarification and specific delineation that is useful in preventing violations of the **Subletting and Subcontracting Fair Practices Act** – **more precisely, to prevent bid shopping and bid peddling, not to give Caltrans a basis to find a bid “nonresponsive,”** which can only be based on the face of the actual bid at closing.

No legal or contractual authority exists for Caltrans’ staff to subjectively evaluate acceptability of prime contractors’ own defined descriptions of “portions” of subcontracted work, or to declare a

low bid nonresponsive when the staff member feels that the description doesn't suitably match the Items listed on the 24 hour submittal. That Caltrans' staff regularly does this indicates their lack of understanding of the bid process or applicable standards.

Caltrans is required by law to award construction contracts to the lowest responsible bidder and to administer the competitive bidding process in a uniform manner. It cannot use its own discretion, after bid opening, to search the descriptions of "portions" of work for ways to avoid this obligation. This persistent practice impermissibly manipulates the competitive bidding process.

E. Caltrans' Exclusive Available Remedies for Subcontractor Listing Errors Do Not Include Finding a Contractor's Bid Nonresponsive.

Even if Coffman did some act in violation of the Act (it didn't), Caltrans has no authority to summarily declare Coffman's bid "nonresponsive" without any notice or hearing. Caltrans' sole remedies are those set forth in § 4110 which says when a prime contractor violates the Act, the awarding authority may only (1) cancel Coffman's contract, or (2) assess a penalty against Coffman of no more than 10 percent of the amount of the subcontract.

In this instance, if Caltrans perceived an issue of noncompliance with the Act (which is implicit in its decision), Caltrans could just have assessed a penalty of \$480 (saving \$843,000 of taxpayers' monies).

Section 4110 also states that, in any proceedings under this section, the prime contractor shall be entitled to a public hearing and to five days' notice of the time and place thereof. Caltrans failed to comply with any part of this statute.

The written Bid Instructions do not notify bidders that their bid will be rejected as nonresponsive if the Subcontractor List form (and 24 hour submittal) is incorrectly completed.² They simply require the forms be completed. Previously, Caltrans expressly included such a notification on the Subcontractor List form and in the written Instructions, but it was removed in or around May 2014.

As explained above, Coffman's bid contained no error or violation; however, if Caltrans believed the bid was noncompliant with the Bid Instructions and the Act, sound reason, fiscal responsibility, and the requirement to protect taxpayers' monies dictate that Caltrans, at most, should only have assessed a \$480 penalty. Instead, your office raised the contract price by nearly \$1 Million, yielding government waste and fiscal detriment.

F. Illegal Contract

If a public official awards a contract pursuant to illegal and invalid specifications and fails to provide for full and fair competitive bidding, he commits an abuse of discretion for which a court will issue a writ of mandamus to correct. (See *Baldwin-Lima-Hamilton Corp. v. Superior Court*, *supra*, at 823.)

Expenditures by an administrative official are proper only insofar as they are authorized by legislative enactment. Such executive officials are not free to spend public funds for any 'public purpose' they may choose, but must utilize appropriate funds in accordance with the legislatively

² Caltrans cannot know if the description of a subcontracted "portion" of work is incorrect without knowing the contractor's reason for using such description and the contents of the subcontractor's quoted scope of work.

designated purpose.” Accordingly, a public official who controls public funds may be held personally liable to repay improperly expended funds if he has failed to exercise due care in permitting the expenditure. (*Stevens v. Geduldig*, 42 Cal. 3d 24, 32 (1986).)

Conclusion

One with knowledge of the bidding process, the Legislative purpose of the subcontractor listing laws, the Public Contract Code, and the applicable federal rules and regulations, can only conclude that Coffman must be awarded the contract.

Caltrans circumvents competitive bidding requirements by deeming some aspect of the lowest responsible bidder's bid package to be “nonresponsive” and awarding the contract to the next low bidder. Caltrans is systematically engaging in this practice to the harm and detriment of the public fisc. It is fiscally irresponsible, a misuse of public funds, violates federal aid requirements, undermines meaningful competition, and raises concerns about the integrity and competence of the process.

The anticompetitive actions of the Department's Engineering Services in declaring contractors' bids nonresponsive time and again over non-existing or minor perceived clerical irregularities and awarding improper contracts, cost taxpayers millions of unnecessary and increasing extra costs. Its failure to analyze bids uniformly based on clear and equally-applied standards leaves bidders in the unfair position of having to guess what will satisfy your office in any given bid, and encourages non-low bidders to scrutinize bid documents and initiate what, in normal circumstances, would be considered frivolous bid protests, because they might get a bite (and they often do). These practices, under the ruse of ‘protecting the second low bidder,’ have been promulgated in violation of the rights of countless contractors.

As one court noted: “It certainly would amount to a disservice to the public if a losing bidder were to be permitted to comb through the bid proposal or license application of the low bidder after the fact, cancel the low bid on minor technicalities, with the hope of securing acceptance of his, a higher bid. Such construction would be adverse to the best interests of the public and contrary to public policy.” (*Judson Pac.-Murphy Corp. v. Durkee*, 144 Cal. App. 2d 377, 383 (1956).) Now, unsuccessful bidders are “combing through” Caltrans' bids on a regular basis.

This is the second contract where Coffman was the lowest responsible bidder but Caltrans wrongfully rejected our bid as nonresponsive. These contracts combined were worth \$60 Million. On the first, when Caltrans finally understood it was incorrect, instead of awarding Coffman the contract it rejected all bids. Other contractors have been similarly violated. It is our intent to seek fair and equitable treatment for Coffman and the industry by obtaining a directive for Caltrans' proper award of all contracts.

After bidding on Caltrans projects for over 40 years; it would appear that this firm and other prominent contractors in the State don't know how to bid projects or fill out bid forms. Until recently, few protests were filed on Caltrans bids; in fact, I only recall a few until the recent protest frenzy. We have no alternative than to immediately file a Petition for Writ of Mandate (which has already been prepared) to stop the Project and to right this wrong, and hold responsible persons accountable. It is suggested that immediate corrective measures be initiated. We have made several

John C. McMillan, Deputy Division Chief
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February 5, 2015
Page 9 of 9

02-10-15A10:45 RCVD

calls in attempts to meet to discuss the circumstances without success. Should you wish to meet and discuss any of the issues set forth hereinabove prior to our filing, let us know.

Truly yours,



Jim Coffman

Encls.

CC: Brian Kelly, Secretary CalSTA
Congressman Mark DeSaulnier
Eric Thronson, Senate Transportation Committee
Jim Ryan, AGC
Tom Holtzman, AGC
Lucy Dunn, California Transportation Committee
Tim Wilson, Skanska
Joe Ferndino, Security Paving
Clint Myers, Myers and Sons
Tom Foss, Griffith Company
Jim Carter, MCM Construction
Mike Wills, Granite Construction
Matt Pim, Riverside Construction
Jason Mordhorst, Hazard Construction Company
Eric Taylor, Dragados
Jeff Turner, Flatiron



COFFMAN SPECIALTIES, INC.

BID RESULTS

Bid Date:

12/29/14

Agency: Caltrans

Project:

Route 67 11-275504

#	Contractor	Bid Amount	Difference	% High	% Difference
1	Coffman Specialties, Inc	\$ 10,125,000.00			0.0%
2	Hazard	\$ 10,968,441.50	\$ 843,441.50	8.3%	7.7%
3	Granite	\$ 11,783,672.00	\$ 1,658,672.00	16.4%	6.9%
4	Pavetech	\$ 11,867,173.00	\$ 1,742,173.00	17.2%	0.7%
5	FCI	\$ 11,957,534.00	\$ 1,832,534.00	18.1%	0.8%
6				0.0%	
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
			\$ -		

Engineer's Estimate:

\$14,600,000.00

31% From Low Bid

Bid Date: 10/16/2014
 Price By: Jim Coffman

Act Bid	10,125,00
Target	10,132,72
Variance	-7,72
Mark Up	4.92%
	474,78

Total	Open	No.	Description	Type	Total in Bid	Sub or Supplier	New Price	Up/Down	Accum Total
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Total Project Cost	10,299,917.00	
Total Cut or Add	-649,706.29	
Revised Project Cost	9,650,210.71	
Margin %	5%	482,510.54
Target bid Cost	10,132,721.25	
Variation	-7,721.25	
Actual Margin	4.92%	474,789.29
List Subs > 1/2% or	50,625.00	

Subcontractor	Group	Amount	Percent
CSI/STATEWIDE	Construction Area Signs	183,516.00	1.81%
STATEWIDE	Road Signs	49,208.00	0.49%
PAYCO	Striping and Pavement Markers	126,670.00	1.25%
PERRY ELECTRIC	Electric	514,959.00	5.09%
ACE FENCE	Guardrail and Midwest Guardrail	736,253.00	7.27%
CSI/PRSI	Cold Plane and Remove Dike	724,679.00	7.16%
APCO	Asphalt Dike	41,171.00	0.41%
PRSI	Shoulder Rumble Strip	43,462.00	0.43%
Total		2,419,918.00	23.91%

Coffman Specialties, Inc.

Project: ROUTE 67 SAN DIEGO RIVER BRIDGE File Name: _____

Bid Date: 10/16/2014

Location: SANTEE/EL CAJON

Tax Rate: 1.0

Price By: Jim Coffman

Contact: 11-275504

Owner: Coffman Specialties, Inc.

1	Description						In Bid		Final Bid CSI/PARRIS				Final Bid CSI/STATEWIDE			
		Qty	Um	Factor	Tax	Unit	Total	<input type="checkbox"/> None	<input type="checkbox"/> Sub	<input type="checkbox"/> Ven	<input type="checkbox"/> Min	<input type="checkbox"/> None	<input checked="" type="checkbox"/> Sub	<input type="checkbox"/> Ven	<input type="checkbox"/> Min	<input type="checkbox"/> None
Item No.	Owner No.	Construction Area Signs	Qty	Um	Factor	Tax	Unit	Total	Unit	Total	Unit	Total	Unit	Total	Unit	Total
4	120090	CONSTRUCTION AREA SIGNS	1	LS	1.00	1.0000	75,000.00	75,000	25,267.00	25,267	21,060.00	21,060				
8	129000	TEMPORARY RAILING (TYPE K)	5260	LF	1.00	1.0000	12.94	68,064	12.94	68,064	12.94	68,064				
9	129100	TEMPORARY CRASH CUSHION	190	EA	1.00	1.0000	165.50	31,445	165.50	31,445	165.50	31,445				
10	027858	TEMPORARY ALTERNATIVE CRASH CU	16	EA	1.00	1.0000	3,934.20	62,947	3,934.20	62,947	3,934.20	62,947				
					1.00	1.0000										
					1.00	1.0000										
					1.00	1.0000										
					1.00	1.0000										
					1.00	1.0000										
					1.00	1.0000										
					1.00	1.0000										
		Sub Total						237,456		187,723		183,516				
		Hook Time														
		Environment Fee														
		Bond Rate		%												
		Group 1 Total						237,456		187,723		183,516				
		Cut/Add from in-Bid								(49,733)		(53,940)				

Coffman Specialties, Inc.

Project: ROUTE 67 SAN DIEGO RIVER BRIDGE

File Name: _____

Bid Date: 10/16/2014

Location: SANTEE/EL CAJON

Tax Rate: 1.0

Price By: Jim Coffman

Contact: 11-275504

Owner: Coffman Specialties, Inc.

2	Description						In Bid		Final Bid STATEWIDE				Final Bid			
							<input type="checkbox"/> None	<input checked="" type="checkbox"/> Sub	<input type="checkbox"/> Ven	<input type="checkbox"/> Min	<input checked="" type="checkbox"/> None	<input type="checkbox"/> Sub	<input type="checkbox"/> Ven	<input type="checkbox"/> Min	<input type="checkbox"/> None	<input type="checkbox"/> Sub
Item No.	Owner No.	Road Signs	Qty	Um	Factor	Tax	Unit	Total	Unit	Total	Unit	Total	Unit	Total		
6	120199	TRAFFIC PLASTIC DRUM	240	EA	1.00	1.0000	44.67	10,721	44.67	10,721						
18	150646	REMOVE PEDESTRIAN BARRICADE	4	EA	1.00	1.0000	432.70	1,731	432.70	1,731						
23	150742	REMOVE ROADSIDE SIGN	10	EA	1.00	1.0000	150.00	1,500	75.00	750						
26	152299	RESET MILEPOST MARKER	1	EA	1.00	1.0000	150.00	150	45.00	45						
27	152320	RESET ROADSIDE SIGN	2	EA	1.00	1.0000	150.00	300	350.00	700						
49	560248	FURN SNGL SHEET ALUM SIGN .063	110	SF	1.00	1.0000	12.00	1,320	17.75	1,953						
50	560249	FURN SNGL SHEET ALUM SIGN .080	190	SF	1.00	1.0000	12.00	2,280	19.25	3,658						
51	560252	FURN SNGL SHEET ALUM SIGN .080	80	SF	1.00	1.0000	12.00	960	22.00	1,760						
52	566011	ROADSIDE SIGN - ONE POST	12	EA	1.00	1.0000	250.00	3,000	195.00	2,340						
53	027859	SIGN POST SUPPORT SYSTEM	10	EA	1.00	1.0000	500.00	5,000	1,700.00	17,000						
54	568001	INSTALL SIGN (STRAP & SADDLE B	18	EA	1.00	1.0000	300.00	5,400	75.00	1,350						
55	568015	INSTALL SIGN (MAST-ARM HANGAR	5	EA	1.00	1.0000	1,250.00	6,250	450.00	2,250						
56	568017	INSTALL ROADSIDE SIGN PANEL ON	2	EA	1.00	1.0000	1,500.00	3,000	75.00	150						
64	820118	GUARD RAILING DELINEATOR	320	EA	1.00	1.0000	25.00	8,000	15.00	4,800						
					1.00	1.0000										
					1.00	1.0000										
		Sub Total						49,612		49,208						
		Hook Time Environment Fee Bond Rate			%			Inc Inc								
		Group 2 Total						49,612		49,208						
		Cut/Add from in-Bid								(404)						



Proposal/Quote

Statewide - Poway
 License # 975518
 13755 Blaisdell Place
 Poway, CA 92064
 Ph (858) 679-7292
 Fax (858) 679-7117

BID DATE: 10/16/14

CONTRACT INFO

11-275504

11-SD-67-R0.0/R5.9

PROPOSAL: 104610

ESTIMATOR

Chris Jones

CVT

CLIENT: EST
 ATTN ESTIMATING DEPARTMENT

PROJECT:
 11-275504
 11-SD-67-R0.0/R5.9

ITEM #	DESCRIPTION	QUANTITY	PRICE	AMOUNT
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Proposal General Notes:

ITEMS #4 (STATIONARY), 6, & 9 ARE FURNISHED, INSTALLED, & REMOVED. CONTRACTOR TO MAINTAIN.
 ITEM #4 (PORTABLE) IS FURNISHED AND DELIVERED TO CONTRACTOR DESIGNATED ONSITE YARD.
 CONTRACTOR TO INSTALL, MAINTAIN, AND REMOVE. TO BE PICKED UP FROM SAME LOCATION.
 TO REMAIN PROPERTY OF STATEWIDE TRAFFIC SAFETY & SIGNS, INC.

ITEM #6 CANNOT GO WITHOUT 9.

ITEMS #17, 23, 26, 27, & 49 THRU 56 MUST GO TOGETHER.

ITEMS #49 THRU 51 INCLUDE TAX & SHIPPING F.O.B. POWAY, CA.

THIS PROPOSAL AND ATTACHED PROVISIONS MUST BECOME A BINDING PART OF ANY SUBCONTRACT.

004	CONSTRUCTION AREA SIGNS	100 LS	210.600/LS	21,060.00
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INCLUSIONS:

(2) TYPE I FUNDING SIGNS, (4) M4-8A SIGNS, (45) SC9 SIGNS, (18) 72"X72" SPECIAL SIGNS, & CAS QUANTITIES PER PLAN SHEETS CS-1, TH-11, TH-12, & TH-13 ONLY.

005	TRAFFIC CONTROL SYSTEM (SEE PAGE 3 FOR RATES)			
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006	TRAFFIC PLASTIC DRUM	240 EA	30.000/EA	7,200.00
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007	PORTABLE CHANGEABLE MESSAGE SIGN (SEE PAGE 4 FOR RATES)			
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009	TEMPORARY CRASH CUSHION MODULE	190 EA	160.000/EA	30,400.00
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010	ALTERNATIVE TEMPORARY CRASH CUSHION SYSTEM (SEE PAGE 4 FOR RATES)			
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017	TREATED WOOD WASTE (PARTIAL)	1399 LB	1.000/LB	1,399.00
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SPECIFICATIONS:

INCLUDES TREATED WOOD WASTE FROM ROADSIDE SIGN REMOVAL ONLY. TREATED WOOD WASTE QUANTITIES FROM REMOVAL OF MBGR TO BE HANDLED BY OTHERS.

11-275504

PROPOSAL/QUOTE

Page 4

11-SD-67-R0.0/R5.9

104610

10/13/14

ITEM #	DESCRIPTION	QUANTITY	PRICE	AMOUNT
023	REMOVE ROADSIDE SIGN	10 EA	75.000/EA	750.00
026	RESET MILEPOST MARKER	1 EA	45.000/EA	45.00
027	RELOCATE ROADSIDE SIGN	2 EA	350.000/EA	700.00
SPECIFICATIONS: EXCLUDES COST OF REPLACEMENT POSTS (IF NECESSARY). ADDITIONAL POST COSTS VARY DUE TO SIZE/TYPE.				
049	FURNISH SINGLE SHEET ALUMINUM SIGN (0.063"-UNFRAMED)	110 SF	17.750/SF	1,952.50
050	FURNISH SINGLE SHEET ALUMINUM SIGN (0.080"-UNFRAMED)	190 SF	19.250/SF	3,657.50
051	FURNISH SINGLE SHEET ALUMINUM SIGN (0.080"-FRAMED)	80 SF	22.000/SF	1,760.00
052	ROADSIDE SIGN - ONE POST	12 EA	195.000/EA	2,340.00
053	SIGN SUPPORT SYSTEM	10 EA	1700.000/EA	17,000.00
054	INSTALL SIGN (STRAP AND SADDLE BRACKET METHOD)	18 EA	75.000/EA	1,350.00
055	INSTALL SIGN (MAST-ARM HANGER METHOD)	5 EA	450.000/EA	2,250.00
056	INSTALL ROADSIDE SIGN PANEL ON EXISTING POST	2 EA	75.000/EA	150.00
059	DETECTABLE WARNING SURFACE	230 SF	14.800/SF	3,404.00
SPECIFICATIONS: PRICE IS FOR FURNISH OF DWT TOUGH-EZ TILE ONLY. INCLUDES TAX & SHIPPING F.O.B. POWAY, CA.				
064	GUARD RAILING DELINEATOR	320 EA	15.000/EA	4,800.00

TOTAL BID:

\$100,218.00

Signed: _____

Dated: _____

Title: _____



Proposal/Quote

Statewide Traffic Safety & Signs
 License # 975518
 13755 Blaisdell Place
 Poway, CA 92064
 Ph (858) 679-7292
 Fax (858) 679-7117

Bid Date: 10/16/2014
 Contract Info:
 11-275504
 11-SD-67-R0.0/R5.9
 Proposal : 104610
 Estimator : Chris Jones

TO: Estimating Dept. _____
 PHONE: _____
 FAX/EMAIL: _____
 SIGNED: _____
 DATE: _____

TRAFFIC CONTROL SYSTEM IS A FOUR (4) HOUR MINIMUM CHARGE AT 70% OF RATES.
 FULL RATE CHARGED AFTER FOUR (4) HOURS. THE MINIMUM CHARGE WILL BE APPLIED
 ON CANCELLATIONS WITH LESS THAN EIGHT (8) HOURS NOTICE.
 APPLY 30 - 60 MINUTES FOR SET UP AND PICK UP.

TRAFFIC CONTROL -- LANE CLOSURES	DAY OR NIGHT
1 LANE, 1 DIRECTION, 1 MILE, 1 T.C. TRUCK, 2 MEN - includes two (2) standard ramp closures -	*\$1,350.00/8hr
COMPLETE FREEWAY CLOSURE (CHART C1), 1 T.C. TRUCK, 2 MEN	*\$1,450.00/8hr
COMPLETE HIGHWAY CLOSURE (CAHRT G1), 1 T.C. TRUCK, 2 MEN	*\$1,350.00/8hr
COMPLETE CITY STREET CLOSURE (CAHRT H1), 1 T.C. TRUCK, 2 MEN	*\$1,450.00/8hr
CONNECTOR CLOSURE, 1 T.C. TRUCK, 2 MEN	*\$1,350.00/8hr
Addl Connector/Connector closure with Detour during lane closure	*\$150.00/each
Additional lanes, ramps and/or miles	*\$50.00/each
Additional TC Truck (no equipment)	*\$225.00/shift
Additional TC Tech	*\$575.00/8hr
IMPACT ATTENUATOR VEHICLE, WITH DRIVER (Based on Availability)	\$850.00/8hr
FLAGGING - 2 MEN / DAY (T-13) / NO Rumble Strips	*\$1,300.00/8hr
FLAGGING - 2 MEN / NIGHT (T-13) / NO Rumble Strips	*\$1,350.00/8hr
FLAGGING - 2 MEN / DAY (T-13) / INCLUDES Rumble Strips	*\$1,600.00/8hr
FLAGGING - 2 MEN / NIGHT (T-13) / INCLUDES Rumble Strips	*\$1,650.00/8hr
NIGHT flagging includes two light sources	

Overtime is \$95.00/8 - 12hr/man; Doubletime \$115.00/over 12 hr/man
 SATURDAY CLOSURES MULTIPLY ABOVE RATES BY 1.4; SUNDAY CLOSURES BY 1.7
 * DOES NOT INCLUDE CHANGEABLE MESSAGE SIGN OR 'IMPACT ATTENUATOR VEHICLE'
 Time begins upon arrival at job site. Rates include travel time up to one (1) hour from any STSSI
 branch location. Additional travel time will be charged at \$30.00 per 1/2 hour/man, each direction.

NO RETENTION HELD FOR TRAFFIC CONTROL OR RENTAL EQUIPMENT

IMPACT ATTENUATOR VEHICLE RENTAL RATES - 20 miles included per day - No Driver
 \$350.00/day, \$1,200.00/1 week, \$3,000.00/4 weeks; \$150.00 delivery & \$150.00 pickup each.
 (Surcharge \$0.75 per mile, portal to portal) (Based on Availability)



Proposal/Quote

Statewide Traffic Safety & Signs

Bid Date: 10/16/2014

License # 975518

Contract Info:

13755 Blaisdell Place

11-275504

Poway, CA 92064

11-SD-67-R0.0/R5.9

Ph (858) 679-7292

Proposal : 104610

Fax (858) 679-7117

Estimator : Chris Jones

TO: Estimating Dept.

PHONE: _____

FAX/EMAIL: _____

SIGNED: _____

DATE: _____

ITEM 7 CHANGEABLE MESSAGE SIGN RENTAL RATES - CALL FOR PURCHASE PRICES

\$150.00/day, \$400.00/1 week, \$1,000.00/4 weeks; \$50.00 delivery & \$50.00 pickup each.

NO delivery or pick up charge if STSSI performs traffic control .

"DAY" rate is applied if STSSI tech maintains PCMS boards

ITEM 10 ABSORB-350 TL-3 / 9 ELEMENT RENTAL RATES - CALL FOR PURCHASE PRICES

\$85.00/day, \$320.00/1 week, \$800.00/4 weeks; \$50.00 delivery & \$50.00 pickup each from yard.

Delivery / removal with installation (EMPTY) - \$150.00 each; (FULL) - \$350.00 each

Relocation - \$350.00 each



Proposal/Provisions

Page 5

Statewide Traffic Safety & Signs

Bid Date: 10/16/2014

License # 975518

Contract Info:

13755 Blaisdell Place

11-275504

Poway, CA 92064

11-SD-67-R0.0/R5.9

Ph (858) 679-7292

Proposal : 104610

Fax (858) 679-7117

Estimator : Chris Jones

A contract and 10 working days notice must be given prior to any move in. This quote shall remain valid for 30 days from date of actual bid opening, unless otherwise agreed upon. **PAYMENT TERMS ARE - 100%, NET 30.**

Lump sum items are based on "working days" listed in the Special Provisions or working days bid for this project. Additional compensation (standard rental rates) will be applied if working days are exceeded.

All Construction Area Signs to be installed at one time or in stages, covered if needed at installation. Contractor to uncover and recover if needed

Construction area signs include one mobilization per stage, additional mobilizations \$1,500.00 each. Additional signs required due to damage, theft, or plan inadequacies will be billed as extra work.

Traffic Control not included in installation, removal, or repair of any item. Stand-by time charged at \$175.00/hr.

Portable equipment will be delivered and picked up from one location. Contractor to maintain. Contractor is liable for loss and or damaged equipment. Barricades do not include flashing lights or sign panels unless otherwise noted. Pallets are not included with crash cushions.

Contractor is liable for lost or damaged equipment removed or relocated by contractor's forces.

Statewide Safety & Signs, Inc. does not accept charges or back charges of any kind unless agreed to in writing prior to work beginning.

Statewide Safety & Signs, Inc. shall fully indemnify Contractor for any liability arising out of Statewide Safety & Signs, Inc. work or products, but only to the extent of Statewide Safety & Signs, Inc. liability and not that of anyone else. Statewide Safety & Signs, Inc. maintains insurance coverage for their work hereunder, including \$2,000,000.00 Products - Comp/OP Agg and a 10/93 Additional Insured Endorsement.

If there are any issues or concerns regarding Statewide Safety & Signs, Inc. products or work, Contractor shall promptly notify and give Statewide Safety & Signs, Inc. first opportunity to correct any such problems.

All sign and marker location / mark-out to be done by others and must be completed prior to Statewide Safety & Signs, Inc. starting work. Statewide Safety & Signs Inc. is not responsible for damage to underground facilities, not shown on plans or, not marked out by other agencies. (ie. Caltrans)

Sign panels for roadside sign items are supplied by others unless purchased through bid items of this quotation. Roadside sign panels will not be received by Statewide Safety & Signs, Inc. earlier than 15 working days prior to scheduled installation. No storage. 45 working days advance notice for sign panel orders. All sign plan discrepancies are to be resolved before any sign panel orders are placed.

Permanent sign and marker installation: maximum move-ins: ONE (1) . Additional move-ins \$1,500.00 each. 45 working days notice for metal post orders. Mounting hardware supplied to, and installed by contractor.

Removal, relocate, and reset items are to be completed in whole per the Special Provisions for the project, and completed in, ONE (1) move-in. Additional move-ins \$1,500.00 each.

Sign installation does not include coring or breaking

All change order work must be approved by agency / owner prior to work being performed by Statewide Safety & Signs, Inc.

Acceptance of this quote is acceptance of these provisions, which shall prevail if in conflict with any other documents.

No retention is to be held on Traffic Control and Equipment Rental.

Arcata	Bakersfield	Fairfield	Fresno	Garden Grove	Nipomo	Poway	Redding	Sacramento	San Jose
707-825-6927	661-834-5324	707-864-9952	559-291-8500	714-468-1919	805-929-5070	858-679-7292	530-222-8023	916-452-4855	408-993-9770

The bidder must identify each subcontractor performing work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Cont Code § 4100 et seq.) 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 non-responsive bid.

Column 1: Business Name and Location	Column 2: Bid Item No.(s)	Column 3: Percent of Bid item Subcontracted	Column 4: Description of Subcontracted Work
Cal Stripe Colton, CA coffman	17	100.00%	Striping & Marking
	18	100.00%	
	20	100.00%	
	24	100.00%	
	34	100.00%	
	35	100.00%	
	36	100.00%	
	57	100.00%	
	152	100.00%	
	153	100.00%	
Statewide Safety Bakersfield, CA coffman	14	100.00%	Construction Area Signs & Related
	16	100.00%	
	19	100.00%	
	23	100.00%	
	138	100.00%	
California Professional Engineering La Puente, CA coffman	139	100.00%	Electrical
	140	100.00%	
	156-171	100.00%	
Penhall Company Anaheim, CA Griffith	50-53	52.00%	Bridge Demo
J. Francis Co. Inc. Riverside, CA Griffith	104-108	100.00%	Joint Seals (Bridge)
Service Construction (S.C.S.C) Orange, CA Coffman	91	2.00%	PCC Joints
	94	2.00%	
	95	100.00%	
	96	100.00%	

Coffman Specialties, Inc.
 Project: ROUTE 15 SEVENTH ST TO SIERRA
 Location: SAN BERNARDINO COUNTY
 Contact: 08-472224

File Name: 12-0002
 Tax Rate:
 Owner: Coffman Specialties, Inc.

Bid Date: 01/26/2012
 Price By: Jim Coffman

01/02/2015
 02:25 PM

Act Bid	77,335,000.00
Target	
Variance	

#	Description	Item	Qty	UM	Cost		Bid		Open	Close	No.	Description	Total in Bid	Sub or Supplier	New Price	Up/Down	Accum Total
					Total	Unit	Unit	Total									
1	PROGRESS SCHEDULE	070012	1	LS	10,000.00	10,000.00	10,000.00	10,000.00	Close	1	Time Related_Plans	357,790.00		357,790.00			
2	TIME RELATED OVERHEAD	070018	1	LS	347,790.00	347,790.00	1,350,000.00	1,350,000.00	Open	2	Const Area	76,635.00	Statewide	122,999.00	46,364.00		46,364.00
3	TEMPORARY LIGHT BARRIER	021194	4,340	LF	39,060.00	9.00	13.00	56,420.00	CloseV	3	Sweeping	357,000.00		357,000.00			46,364.00
4	CONSTRUCTION SITE MANAGEMENT	074016	1	LS	58,102.00	58,101.67	50,000.00	50,000.00	Close	4	Pvmt Mrlgs	1,129,423.00	Cal Stripe	195,887.00	-933,536.00		-887,172.00
5	PREP STORM WATER POLLUT PREVTN PLAN	074019	1	LS	3,500.00	3,500.00	3,500.00	3,500.00	Close	5	MBGR_Fence	3,088,980.00	CROWN	1,891,004.00	-1,397,976.00		-2,285,148.00
6	TEMP CONSTRUCTION ENTRANCE	074033	8	EA	24,000.00	3,000.00	3,000.00	24,000.00	Close	6	Const Management	293,202.00		293,202.00			-2,285,148.00
7	TEMP DRAINAGE INLET PROTECT	074038	100	EA	20,000.00	200.00	200.00	20,000.00	Close	7	Traffic Control	697,732.00		697,732.00			-2,285,148.00
8	STREET SWEEPING	074041	1	LS	357,000.00	357,000.00	275,000.00	275,000.00	Close	8	Temp Barrier	3,514,848.00		1,769,814.00	-1,745,034.00		-4,030,182.00
9	TEMP CONCRETE WASHOUT FACILITY	074043	75	EA	75,000.00	1,000.00	750.00	56,250.00	Close	9	Erosion Control	299,860.00	HYDROSPROUT	69,936.00	-229,924.00		-4,260,106.00
10	TRMPORARY SOIL BINDER	074055	20,000	SY	5,000.00	0.25	0.20	4,000.00	Clostell	10	Landscape Irrigation	2,721,654.00	GRIFFITH	1,571,225.00	-1,150,429.00		-5,410,535.00
11	RAIN EVENT ACTION PLAN	074056	84	EA	16,800.00	200.00	500.00	42,000.00	Close	11	Remove A/C	299,236.00		299,236.00			-5,410,535.00
12	STORM WATER ANNUAL REPORT	074057	3	EA	7,800.00	2,600.00	2,000.00	6,000.00	Close	12	Concrete Barriers	989,509.00	GRIFFITH FINAL	630,140.00	-359,369.00		-5,769,904.00
13	STORM WATER SAMPLING AND ANALYSIS D	074058	33	EA	33,000.00	1,000.00	1,000.00	33,000.00	Close	13	Bridge Removals	434,000.00	Penhall	61,125.00	-372,875.00		-6,142,779.00
14	CONSTRUCTION AREA SIGNS	120090	1	LS	30,000.00	30,000.00	90,000.00	90,000.00	Close	14	Clear and Grub	245,130.00	GRIFFITH /CSI	247,800.00	2,670.00		-6,140,109.00
15	TRAFFIC CONTROL SYSTEM	120100	1	LS	697,732.00	697,732.00	510,000.00	510,000.00	CloseV	15	Road Excavation		GRIFFITH II				-6,140,109.00
16	TYPE III BARRICADE	120120	94	EA	7,050.00	75.00	55.00	5,170.00	Close	16	Aggregate Bases	837,500.00	GRIFFITH II	993,290.00	155,790.00		-5,984,319.00
17	TEMP PAVEMENT MARKING (PAINT)	120149	1,010	SF	2,273.00	2.25	2.00	2,020.00	Close	17	LCB	5,901,472.00		5,901,472.00			-5,984,319.00
18	TEMPORARY TRAFFIC STRIPE (PAINT)	120159	608,000	LF	109,440.00	0.18	0.50	304,000.00	Close	18	Concrete Pavement	8,637,090.00		8,637,090.00			-5,984,319.00
19	CHANNELIZER (SURFACE MOUNTED)	120165	2,270	EA	68,100.00	30.00	25.00	56,750.00	Close	19	Seal PCCP Joints	4,718,200.00	Service	2,813,234.00	-1,904,966.00		-7,889,285.00
20	TEMPORARY PAVEMENT MARKER	120300	77,800	EA	232,800.00	3.00	3.00	232,800.00	Close	20	U/G Demo	567,810.00	GRIFFITH II	178,040.00	-389,770.00		-8,279,055.00
21	PORTABLE CHANGEABLE MESSAGE SIGN	128850	8	EA	20,000.00	2,500.00	2,500.00	20,000.00	Close	21	Underground	1,596,203.00	CSI II	65,000.00	-1,531,203.00		-9,810,258.00
22	TEMPORARY RAILING (TYPE K)	128000	243,000	LF	1,965,870.00	8.09	16.00	3,888,000.00	Open	22	Rumble Strip	203,556.00	Austln	2,151.00	-201,405.00		-10,011,663.00
23	TEMPORARY CRASH CUSHION MODULE	129100	890	EA	155,750.00	175.00	165.00	146,850.00	Close	23	Tack_Prime	169,080.00	GRIFFITH II	183,980.00	14,900.00		-9,996,763.00
24	REM YELLOW THERMO TRAFFIC STRIPE (H)	141103	97,300	LF	48,850.00	0.50	0.30	29,190.00	Close	24	A/C Dike	63,108.00	GRIFFITH II	28,525.00	-34,583.00		-10,031,346.00
25	ABANDON CULVERT	150206	1,590	LF	120,840.00	76.00	80.00	127,200.00	Close	25	A/C Pavements	5,056,790.00	GRIFFITH II	1,291,875.00	-3,764,915.00		-13,796,261.00
26	ABANDON INLET	150221	11	EA	16,830.00	1,530.00	2,000.00	22,000.00	Clostell	26	Drill and Bond	67,200.00		67,200.00			-13,796,261.00
27	REMOVE 1" ELEC REMOTE VALVE BOX	021195	6	EA	330.00	55.00	55.00	330.00	Clostell	27	Spalls	46,580.00	GRIFFITH FINAL	50,320.00	3,740.00		-13,792,521.00
28	REMOVE 1 1/2" ELEC REMOTE BOX	021196	150	EA	8,250.00	55.00	55.00	8,250.00	Clostell	28	Grind Conc Pvmnt	1,036,000.00	HARBER	891,069.00	-144,931.00		-13,937,452.00
29	REMOVE 1 1/2" ELEC REMOTE BOX	021197	1	EA	55.00	55.00	55.00	55.00	Clostell	29	Structure Conc	4,189,385.00	GRIFFITH FINAL	2,922,390.00	-1,266,995.00		-15,204,447.00
30	REMOVE SPRINKLER TY C-2	021198	9,120	EA	51,072.00	5.80	6.00	54,720.00	Clostell	30	Minor Conc	523,750.00	CSI FINAL	523,369.00	-381.00		-15,204,828.00
31	REMOVE SPRINKLER TY C-3	021199	6,560	EA	36,736.00	5.60	6.00	39,360.00	Clostell	31	Deck Treatment	161,091.00	CSI/EPS/Francis	96,952.00	-64,139.00		-15,268,967.00
32	REMOVE 2" GATE VALVE	021200	37	EA	2,035.00	55.00	55.00	2,035.00	Clostell	32							-15,268,967.00
33	REMOVE 2" PRESS REDUCE VALVE & BOX	021201	37	EA	2,035.00	55.00	55.00	2,035.00	Clostell	33	Rock Slope	96,560.00	ROCK STRUCTURES	53,560.00	-43,000.00		-15,311,967.00
34	REM THERMO TRAFFIC STRIPE	150714	195,000	LF	58,500.00	0.30	0.30	58,500.00	Close	34	Joint Seals- Bridges	345,566.00	J Francis	254,172.00	-91,394.00		-15,403,361.00
35	REM THERMO PAVEMENT MARKING	150715	510	SF	2,550.00	5.00	1.50	765.00	Close	35							-15,403,361.00
36	REMOVE PAVEMENT MARKER	150722	35,400	EA	35,400.00	1.00	0.50	17,700.00	Close	36	Electrical	2,375,000.00	CPE	657,111.00	-1,717,889.00		-17,121,250.00
37	REMOVE ASPHALT CONCRETE DIKE	150771	9,170	LF	9,170.00	1.00	1.00	9,170.00	Close	37	Misc Iron and Steel	194,664.00	CRANEVEYOR	62,941.00	-131,723.00		-17,252,973.00
38	REMOVE CULVERT	150805	230	LF	8,050.00	35.00	35.00	8,050.00	Close	38	Survey Monument	23,000.00		23,000.00			-17,252,973.00
39	REMOVE INLET	150820	23	EA	35,190.00	1,530.00	500.00	11,500.00	Close	39	Gen Cond	2,782,602.00	JC Griffith	3,817,602.00	1,035,000.00		-16,217,973.00
40	REMOVE HEADWALL	150821	1	EA	1,530.00	1,530.00	1,500.00	1,500.00	Close	40	JV Insurance	100,000.00		100,000.00			-16,217,973.00
41	SALVAGE METAL BRIDGE RAILING	151270	3,565	LF	35,650.00	10.00	10.00	35,650.00	Clostell	41	Working Days	91,875,000.00		91,875,000.00			-16,217,973.00
42	SALVAGE METAL BEAM GUARDRAIL	151272	13,600	LF	68,000.00	5.00	5.00	68,000.00	Clostell	42	QC Program	850,000.00	Group Delta	854,322.00	4,322.00		-16,213,651.00
43	RELOCATE CONC BARRIER TY 60K	021202	17,700	LF	24,780.00	1.40	3.00	53,100.00	Close	43	Ready Mix Compare						-16,213,651.00
44	ADJUST INLET	152430	12	EA	7,920.00	660.00	1,500.00	18,000.00	Close	44	Cement	8,075,710.00	CEMEX	6,629,226.00	-1,446,484.00		-17,660,135.00
45	COLD PLANE ASPHALT CONC PAVEMENT	153103	67,200	SY	140,448.00	2.09	2.00	134,400.00	Clostell	45	ADMIXTURES	847,381.00		847,381.00			-17,660,135.00
46	REMOVE CONC BARRIER TYPE 50	153230	41,300	LF	111,510.00	2.70	5.00	206,500.00	Close	46	PCC aggregates	4,817,846.00	Cemex	4,142,645.00	-675,201.00		-18,335,336.00
47	SALVAGE CONC BARRIER TYPE 50	021203	1,000	LF	3,000.00	3.00	5.00	5,000.00	Close	47	LCB Aggregates	1,269,376.00	Cemex	1,453,446.00	184,070.00		-18,151,266.00
48	CLEAN BRIDGE DECK	153235	117,088	SF	46,835.00	0.40	0.13	15,221.44	Clostell	48	Metals_Cure	4,196,330.00	SIMPLEX	4,206,745.00	10,415.00		-18,140,851.00
49	CAP INLET	155003	22	EA	33,660.00	1,530.00	2,000.00	44,000.00	Close	49	FLYASH	1,169,307.00	SRMG	1,103,926.00	-65,381.00		-18,206,232.00
50	BRIDGE REM (PORTION) LOC A	157561	1	LS	72,910.00	72,910.00	25,000.00	25,000.00	Clostell	50	TYPE 3 CEMENT	3,123,674.00		3,123,674.00			-18,206,232.00


COFFMAN SPECIALTIES, INC.
 GENERAL AND ENGINEERING CONTRACTORS

November 3, 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
Opposition to Hazard Construction's Protest of Coffman Specialties, Inc.'s Low

Bid

Dear Mr. McMillan:

Coffman Specialties, Inc.'s ("Coffman") bid was responsive to the contract bid documents. Coffman opposes the protest filed by Hazard Construction ("Hazard") concerning Coffman's bid for Caltrans Contract No. 11-275504 to construct the Rte. 8/67 Separation Project; the arguments raised in Hazard's protest are without merit.

I. BID RESULTS

Caltrans received and opened bids on October 16, 2014. CSI was the apparent lowest responsive responsible bidder. The five lowest bids submitted were:

Bid Rank	Contractor	Bid Amount	Δ from low bid (\$)	Δ from low bid (%)
1	Coffman Specialties	\$10,125,000.00	<i>LOW BID</i>	<i>LOW BID</i>
2	Hazard Construction	\$10,968,441.50	\$ 843,441.50	7.69%
3	Granite Construction	\$11,753,679.00	\$1,628,679.00	13.86%
4	Pave Tech	\$11,867,873.00	\$1,742,873.00	14.69%
5	Flatiron West	\$11,957,534.00	\$1,832,534.00	15.33%

II. COFFMAN PROPERLY COMPLETED THE SUBCONTRACTOR LIST FORM

Coffman submitted its bid with an accurate Subcontractor List form on bid day. Within 24 hours of the bid, on October 17, Coffman faxed its Subcontractor List to Caltrans, accurately stating the additional information required by the Contract bid specifications. Within 72 hours thereafter, on October 20, Coffman sent Caltrans the DBE Commitment form. As discussed below, the DBE form contained a minor clerical error that was inconsequential to the bid. Hazard provides no legal support for its protest, nor does any exist.



John McMillan
California Dept. of Transportation
November 3, 2014
Page 2 of 7

Hazard offers the following 3 arguments as grounds for rejecting Coffman's low bid, none of which are persuasive:

A. that Statewide Traffic Safety & Signs' ("Statewide") scope of work—"Construction Area Signs/Roadside Signs (partial)"—was "enlarged" by including Bid Items 9 and 10 in the Subcontractor List sent within 24 hours after bid opening.

B. that Ace Fence Corp.'s ("Ace Fence") scope of work—"MBGR/Fence"—was "enlarged" by including Bid Item 65 in the Subcontractor List sent within 24 hours after bid opening.

C. that Ace Fence's work did not include Bid Item 64 in the 24 hour Subcontractor List and varied from the DBE Commitment Form which did include Item 64 in Ace Fence's work.

Hazard's protest twice proclaims that Coffman "enlarged and reduced" the scope of subcontractors' work, although the substance of the 3 arguments only asserts Coffman *enlarged* the scope. Arguments A and B relate to the Subcontractor List and the laws in the Subletting and Subcontracting Fair Practices Act (the Act). The central purpose of the Act is to protect the public and subcontractors from bid shopping and bid peddling in public works projects. (*Valley Crest Landscape, Inc. v. City Council* (1996) 41 Cal. App. 4th 1432, 1439.)

The conduct Hazard complains of (enlarging subcontractors' scope of work) (which Coffman disputes) did not, and could not have permitted bid shopping or bid peddling. No Item of work was deleted from a subcontractor's scope after bid time.

A. Statewide's Scope of Work was not Enlarged.

In its bid, Coffman described Statewide's portion of work as "Construction Area Signs/Roadside Signs (partial)." Hazard argues that Coffman "enlarged" Statewide's scope of work by including Bid Items 9 (Temporary Crash Cushion Module) and 10 (Temporary Alternative Crash Cushion System) in the 24 hour submittal. Its argument is flawed for two crucial reasons.

1. The Portion of Work Includes the Items Identified in the Subcontractor List.

Items 9 and 10 are logically related to Construction Area Signs and Roadside Signs and within the scope of the described work identified in Coffman's initial bid. They are safety and traffic control-related Items that are lumped together within the first few Bid Items in the contract with signs, traffic control, portable changeable message sign and temporary railing. Coffman has always described subcontractors' work relating to crash cushions in this way in the initial Portion of Work descriptions at bid time. Other contractors regularly do the same. Caltrans' continued acceptance of this grouping of Items in the work description is essential for consistency in its bidding process.

John McMillan
California Dept. of Transportation
November 3, 2014
Page 3 of 7

Coffman always intended Items 9 and 10 to be within Statewide's scope as evidenced by the absence of "Temporary Crash Cushion Modules" and "Temporary Alternative Crash Cushion System" from any other subcontractor's work description or scope in its bid. Statewide's proposal at bid time (Attachment "I") included Items 9 and 10, and Coffman cost at bid time included those Item costs.

2. **Material Suppliers are Not Required to be Identified at Bid Time.**

A bidder is not obligated to list in its initial bid documents the names of suppliers of non-specialty materials (such as crash cushions). The Public Contract Code only requires bidders to list subcontractors "who will perform work or labor or render service" to the project or who "specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications . . . in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater." (Pub. Cont. C §4104, emphasis added.) Since Coffman was not obligated to state in its bid who will supply crash cushions, failure to list the Item in the bid does not render the bid nonresponsive.

Further, the Code allows submission of all subcontractor information (other than the name, place of business, and (in non-federal aid contracts) contractor's license number) up to 24 hours after bid time.

(Pub. Cont. Code § 4104(3)(A).) Caltrans expressly implements this statute in its bids.

Since Items 9 and 10 do not involve the performance of work, labor, services or special fabrication and installation of a portion of the work, Coffman's omission of these Items from its Subcontractor List at bid time and in the 24 hour submittal is allowable by both the law and the Department. Supply of such materials is not part of Statewide's labor or services (e.g. "work"), hence, its "scope of work" was not enlarged by Coffman's inclusion of these Items in the subsequently submitted information.

In a similar situation, a protest was filed against a low bidder who identified the subcontractor's work as Bid Item 3 (Traffic Control Systems) but listed Items 3 and 4 (Portable Message Board) in the DBE Commitment form. Caltrans denied the protest as having no merit, because Item 4 was "rental equipment" and was not required to be listed in the Subcontractor List form. (See Caltrans protest decision dated Dec. 2, 2013, Attachment "2".)

B. **Ace Fence's Scope of Work was Not Enlarged.**

Coffman described Ace Fence's Portion of Work as "MBGR/Fence." Hazard argues that Coffman's 24 hour Subcontractor List "enlarged" Ace Fence's scope of work by adding Bid Item 65 (Alternative Crash Cushion). This strained argument, too, is unconvincing. The Crash Cushions are physically attached to the Metal Beam Guard Rail; they are a rationally related part of the work. The Item number falls between 64 (Guard Railing Delineator) and 66 (Midwest Guardrail System) and an array of other railing and barrier items in the contract's Bid Item list.

John McMillan
California Dept. of Transportation
November 3, 2014
Page 4 of 7

Coffman always intended Item 65 to be within Ace Fence's scope as evidenced by the absence of "Alternative Crash Cushion" from any other subcontractor's work description or scope. Ace Fence's proposal at bid time (Attachment "3") included Item 65, and Coffman's cost at bid time included the cost of that Item.

Caltrans recently considered and rejected this same argument. (See Mr. McMillan's letter dated July 31, 2014, Attachment "4"). Caltrans determined the work description of "Guard Rail, Fence & related (portion)" unchanged by inclusion of bid item numbers for "Crash Cushion" and "Alternative Crash Cushion" in the 24 hour submittal.

C. Coffman's Bid Accurately Stated the Scope of Ace Fence's Work. The DBE Commitment Form Contains an Inconsequential Error that Caltrans Should Waive.

Hazard argues that Coffman's DBE Commitment form submitted within 72 hours after bid "reduced" the scope of its work by failing to include Item 64 (Guard Railing Delineator), the retro-reflective safety devices mounted on the guard rail to show the roadway alignment. Coffman's bid and 24 hour submittal correctly said Statewide would perform Item 64. The DBE sheet, submitted days after bid opening, said Ace Fence would provide "MBGR/Fence"—Contract Item numbers 17-20 and 64-73. Item 64 was inadvertently included when Coffman's contracts personnel mistakenly included all bid Items from Ace Fence's proposal when she should have omitted Item 64 from the DBE form.¹

Since this error is insignificant and gave Coffman no advantage, in the interests of the State and the taxpayers, Caltrans should waive the minor irregularity.

1. Coffman Met the DBE Goal Without Item 64.

The purpose of the DBE Commitment form is to document the bidder's DBE participation. Coffman's mistaken inclusion of Item 64 within Ace Fence's work was inconsequential because its bid remains by far the lowest bid—exclusive of the value of the erroneously listed Item of work; and without the Item, Coffman still surpassed the 6% goal, with a revised total DBE participation of 7.22%.

Coffman provided Ace Fence's (Attachment "3") proposal with the DBE form. As shown in the proposal, the value of Item 64 is \$8,960 (320 units x \$28/unit). Coffman included this value in Ace Fence's total DBE participation amount (\$740,880).

DBE participation with Item 64 removed totals \$731,920.00 (\$740,880 - \$8,960) which is 7.22% of the total bid amount. Therefore, adding this Item in the DBE Commitment form was

¹ The DBE Commitment Form is not required under the "Subletting and Subcontracting Fair Practices Act" (Pub. Cont. Code § 4100 *et seq.*). It is not interpreted under the Act, and its purpose is unrelated to the goals of the Act.

John McMillan
California Dept. of Transportation
November 3, 2014
Page 5 of 7

inconsequential and did not help Coffman meet the DBE goal or otherwise give it an advantage over other bidders.

In other recent protests, Caltrans found bids responsive that contained inconsequential inconsistencies between the DBE forms and the Subcontractor lists. A low bidder who listed a subcontractor as providing Items 40, 41, 52 was identified in the DVBE Summary as providing items 41, 49 and 52. (See Caltrans protest decision dated November 6, 2013, Attachment "5".) Caltrans found the protest lacked merit for two important reasons, one being that the bidder still met the 5 percent goal for the project.

Caltrans rejected another bid protest involving a low bidder who identified a subcontractor as performing "Place Hot Mix Asphalt Dike" in its initial bid, but omitted bid Item 99 (Place Hot Mix Asphalt Dike-Type A Modified) from the 24 hour Subcontractor List submittal; then included Item 99 in the DBE Commitment form. (See Caltrans protest decision dated April 30, 2014, Attachment "6".) That bid was inconsistent twice—between the initial Subcontractor List and the DBE form, and also between the first and the second (24-hour) Subcontractor Lists. Yet Caltrans did not automatically reject the bid as nonresponsive just because it contained an inconsistency (as Hazard asserts should be done); rather, Caltrans rejected the protest and made the following determinations:

Item 2B: As this item pertains to the DBE submittal, the Office of Business and Economic Opportunity's Contract Evaluation Branch (CEB) will evaluate the DBE Commitment documents and make the required adjustment based on the DBE's quote and will disallow items that are omitted from the DBE Commitment form."

...
For these reasons, Caltrans finds that the protests from MCM have no merit and will proceed to award this contract to the lowest responsible bidder, provided that all requirements have been met."

If the DBE goal is met without inclusion of the inconsistent bid Item amount, the apparent low bidder can be awarded the contract despite the error.

2. Coffman Can Self-Perform Item 64 if Caltrans Considers the Bid as Listing Two Subcontractors to Perform the Same Work.

Caltrans (at most) could disallow either subcontractor (Ace Fence and Statewide) from performing Item 64 and let Coffman self-perform. The Public Contract Code states:

"If a prime contractor fails to specify a subcontractor or if a prime contractor specifies more than one subcontractor for the same portion of work to be performed under the contract in excess of one-half of 1 percent of the prime contractor's total bid, the prime contractor agrees that he or she is fully qualified

John McMillan
California Dept. of Transportation
November 3, 2014
Page 6 of 7

to perform that portion himself or herself, and that the prime contractor shall perform that portion himself or herself.”

(Pub. Cont. Code § 4106.) Coffman has the equipment and ability to do the work. This minimal item of work erroneously listed in the DBE form is insufficient and irrational grounds for rejection of the bid. However, if Caltrans deems this error consequential, the State can remedy the problem by permitting Coffman to supply and mount the delineators itself.

3. Coffman did not Gain an Advantage.

Hazard's assertion that "it is impossible to determine what work is being subcontracted" is inaccurate and irrelevant. Coffman's Subcontractor Lists accurately identified the work each subcontractor would perform. *The documents submitted at bid time and within 24 hours thereafter were consistent.* To determine the subcontractors listed in a bid and the scope of their work, Caltrans should look solely to the Subcontractor List forms, not the DBE Commitment sheet. But, if Caltrans believes that including Item 64 in Ace Fence's DBE Commitment information renders the performance of the Item ambiguous, Caltrans must determine whether it is consequential, it is not. The irregularity should be waived.

III. COFFMAN'S BID IS THE LOWEST RESPONSIVE BID

The issues Hazard complains of are inconsequential. They did not affect Coffman's bid price; Coffman could not have relied on them to back out of its bid; and they did not give Coffman any advantage. Caltrans has the discretion to waive inconsequential deviations.

"[A] bid which substantially conforms to a call for bids may, though it is not strictly responsive, be accepted if the variance cannot have affected the amount of the bid or given a bidder an advantage or benefit not allowed other bidders or, in other words, if the variance is inconsequential. (*Bay Cities Paving & Grading, Inc. v. City of San Leandro* (2014) 223 Cal. App. 4th 1181, 1188, *review denied* (May 21, 2014).) "[A] deviating bid must be set aside despite the absence of corruption or actual adverse effect on the bidding process' *only if* the deviation is 'capable of facilitating corruption or extravagance, or likely to affect the amount of bids or the response of potential bidders.'" (*Id.*, at 1188) (emphasis added).

A mistake is material and gives a bidder an unfair advantage if it can be used as a basis for the bidder to back out of its bid. [See; "we conclude [the low bidder] had an unfair advantage because it could have withdrawn its bid ... under Public Contract Code section 5103, [the low bidder] could have sought relief by giving the City notice of the mistake within five days of the opening of the bid. That [the low bidder] did not seek such relief is of no moment. The key point is that such relief was available. Thus, [the low bidder] had a benefit not available to the other bidders; it could have backed out. Its mistake, therefore, could not be corrected by waiving an "irregularity." (*Valley Crest Landscape, Inc., supra.* at 1442.)

John McMillan
California Dept. of Transportation
November 3, 2014
Page 7 of 7

"It certainly would amount to a disservice to the public if a losing bidder were to be permitted to comb through the bid proposal or license application of the low bidder after the fact, [and] cancel the low bid on minor technicalities, with the hope of securing acceptance of his, a higher bid. Such construction would be adverse to the best interests of the public and contrary to public policy." (*Ghilotti Construction Co. v. City of Richmond* (1996) 45 Cal.App.4th 897, 908-909.)

IV. HAZARD'S BID CONTAINED ERRORS

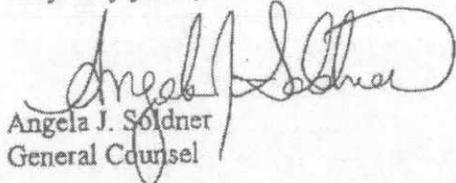
Hazard's own bid is not perfect and contains irregularities. It listed several Items in its subcontractor work descriptions more than once without indicating the work was only "partial" (e.g. Items 1, 5, 17, 28, 30, 35, 39, 48, 94, and "lead plan") although all were "partial" when identified in the 24 hour submittal. If Caltrans chooses not to waive a minor irregularity in Coffman's—the apparent low bidder's—bid, it should scrutinize Hazard's bid with the same stringency.

V. CALTRANS SHOULD AWARD THE CONTRACT TO COFFMAN

Based on the foregoing, it is in the State's interests, and the law and contract provisions support awarding the contract to Coffman as the lowest responsive bidder.

Thank you for your attention to this matter.

Very truly yours,



Angela J. Soldner
General Counsel

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER
P.O. BOX 168041, MS-43
SACRAMENTO, CA 95816-8041
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*Serious drought.
Help save water!*

December 19, 2014

Facsimile: (858) 453-6034

Colleen Coffman, President
Coffman Specialties, Inc.
9685 Via Excelencia, Suite 200
San Diego, CA 92126

11-275504
11-SD-67-R0.0/R5.9
B.O 10/16/2014

Dear Ms. Coffman:

The Department of Transportation (Caltrans) received a letter dated October 27, 2014, from Hazard Construction (Hazard) protesting the bid submitted by Coffman Specialties, Inc. (Coffman), on contract 11-275504. The protest alleges the following issues;

1. On bid day, Coffman identified Statewide Traffic Safety & Signs as performing work described as Construction Area Signs and Roadside Signs. On the 24 hour submittal, Coffman listed bid items 4, 9, 10, 17, 23, 26, 27, 49-56, 64 as being performed by Statewide Traffic Safety & Signs. Hazard alleges that Bid items 9 and 10 (Temporary Crash Cushion Module and Temporary Alternative Crash Cushion System) are not bid items associated with work described as Construction Area Signs and Roadside Signs. Therefore, Hazard alleges that Coffman enlarged the scope of work by including items 9 and 10 on its 24 hour subcontractor listing.
2. On bid day, Coffman listed Ace Fence Corp. (Ace) to perform work described MBGR/Fence. On the 24 hour submittal Coffman listed bid items 17, 18-20, 65, 66-73 as being performed by Ace Fence Corp. Hazard alleges that Bid item 65 (Alternative Crash Cushion) is not included in the description of work for MBGR/Fence. Therefore, Hazard alleges that Coffman enlarged the scope of work by adding bid item 65. In addition, Hazard alleges that Coffman reduced the scope of work by omitting bid item 64, Guard Railing Delineator.
3. Coffman identified Ace for the aforementioned items in (2) however, submitted its Disadvantaged Enterprise Commitment form (DBE) listing Ace for bid items 17-20, 64-73. Hazard therefore alleges that the Subcontractor list submitted by Coffman does not match the DBE list as required.

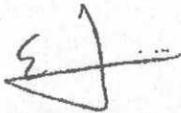
Caltrans evaluated the bid documents submitted by Coffman and determined;

1. 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.
2. Alternative Crash Cushions are covered under the elements of work described in the 2010 Revised Standard Specifications, Section 83, Railings and Barriers. As such, Caltrans determined that the scope of work described as MBGR/Fence is relative to bid item 65. Furthermore, Caltrans does not require the contractor to subcontract all elements of the work, only that portion that he/she will not be self performing. Therefore, Caltrans finds that the inclusion of bid item 65 did not improperly expand the work given to Ace Fence Corp. and the bid is responsive on this issue.
3. Caltrans has determined that the listing of bid item 64, Guardrail Delineator on the DBE Commitment form is a clerical error. As such, the DBE participation for Ace fence will be reduced by this item. In addition, the error itself does not materially affect the bid and can therefore be waived by Caltrans.

Based on these findings, Caltrans finds the bid submitted by Coffman nonresponsive. Caltrans will proceed to award the contract to the lowest responsive and responsible bidder provided that all requirements have been met.

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

Sincerely,



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

DEPARTMENT OF TRANSPORTATION
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*Serious drought.
Help save water!*

December 24, 2014

Facsimile: (858) 536-3131

Colleen Coffman, President
Coffman Specialties, Inc.
9685 Via Excelencia, Suite 200
San Diego, CA 92126

11-275504
11-SD-67-R0.0/R5.9
B.O 10/16/2014

Dear Ms. Coffman:

The Department of Transportation (Caltrans) received a letter dated December 24, 2014, from Coffman Specialties, Inc.(Coffman) in response to a notification of a nonresponsive bid finding. Caltrans inadvertently faxed the notification to an incorrect fax number. We have made note of the correct fax number for Coffman. Meanwhile, the correspondence was sent via mail to Coffman's address as noted above.

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

Sincerely,

A handwritten signature in black ink, appearing to read "John C. McMillan".

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



COFFMAN SPECIALTIES, INC.
GENERAL AND ENGINEERING CONTRACTORS

January 4, 2015

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
Federal Aid Project ACSTPNH-P067(071)E
Statement of 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. ("Coffman") submitted a bid to the California Department of Transportation ("Caltrans") for contract 11-275504 (Federal Aid Project ACSTPNH-P067(071)E (the "Contract")). Coffman was the lowest responsible bidder, and its bid was responsive to the Contract bid documents including (without limitation) the Standard Specifications (collectively referred to as "Bid Instructions") and statutory requirements. Caltrans did not provide Coffman the requisite notice of its bid being found nonresponsive. Caltrans finding of nonresponsiveness, and the award to Hazard, is improper and invalid. Coffman submits the instant statement in support of its protest of 1) the lack of notice and 2) Caltrans' refusal to award the Contract to Coffman.

I.
FACTS

- 10/16/2014 Bids for the Contract were submitted and read. Coffman's bid of \$10,125,000 was the lowest. The second lowest bidder's (Hazard) price was \$10,968,461.50 (8.3% higher than Coffman's).
- 10/27/2014 Caltrans received Hazard's protest against Coffman's bid concerning the 24-hour final subcontractor list.
- 11/3/2014 Coffman responded to Hazard's protest, affirming that Coffman correctly completed the bid form and submitted the lowest responsive bid. Caltrans never acknowledged or responded to Coffman's responsive letter.
- 11/12/2014 Caltrans asked Coffman to sign an agreement extending the award period to 12/15/2014. Coffman signed and returned the agreement.
- 12/10/2014 Caltrans asked Coffman to sign an agreement extending the award period to 1/14/2015. Coffman signed and returned the agreement.



- 12/23/2014 Coffman found, on Caltrans' website, a letter written by Caltrans dated December 19, 2014, declaring Coffman's bid nonresponsive. According to Mulissa Smith of Caltrans' DES/Office Engineer, the December 19 letter was not placed in the mail to Coffman until December 22. Ms. Smith stated that Caltrans faxed the Dec. 19 letter to Hazard instead of Coffman.
- 12/24/2014 Coffman discovered on Caltrans' website that the Contract was awarded to Hazard on December 23, 2014. (Prior to this, Coffman had been declared the intended awardee on Caltrans' website.)
- 12/29/2014 Coffman received in its office Caltrans' Dec. 19 letter – notifying Coffman that its bid was declared nonresponsive. Coffman submitted notice of its Bid Protest.

Caltrans determined Coffman's bid was nonresponsive because in the Subcontractor List submitted at bid time, Coffman generally described the portion of work subcontracted to Statewide Traffic Safety & Signs ("Statewide") as "Construction Area Signs/Roadside Signs (partial)." In the 24-hour submittal, Coffman identified the Bid Items Numbers to be subcontracted to Statewide and percentage thereof, including Item 64 (Guardrail Delineator). Coffman's bid price for Item 64 was \$15 each (a total value of \$4,800 for 320 units).

Caltrans expressed its decision as follows:

"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 non-responsive on this basis." (Caltrans letter dated December 19, 2014.)

II. CALTRANS DID NOT FOLLOW STATUTORY PROCEDURES GOVERNING CONTRACT AWARD

The Contract was let under a public bidding process. Caltrans gave Coffman no prior notice of its intent to award to a bidder other than Coffman (the lowest responsible bidder); nor did Caltrans provide prior notice to Coffman of its finding that Coffman's bid is nonresponsive. It awarded the contract to Hazard on December 23. These omissions violate 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.) California courts recognize the right of a bidder to receive notice of nonresponsiveness. “[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).)

Caltrans’ finding of Coffman’s bid nonresponsive and award of Contract to Hazard, who is not the lowest bidder, were made without notice required by Public Contract Code § 10345.

If a contract is subject to statutory competitive bidding requirements, compliance with such statutes is mandatory and any contract made without compliance with the statutes is void and unenforceable as being in excess of the public entity's power. (*Miller v. McKinnon* (1942) 20 Cal.2d 83, 87-88, 89, superseded on another point by statute as explained in *Marshall v. Pasadena Unified School Dist.* (2004) 119 Cal.App.4th 1241, 1260.)

III.

CALTRANS MUST AWARD TO THE LOWEST RESPONSIBLE BIDDER

Coffman was the lowest responsible bidder and must be awarded the Contract. The State Contract Act of the Public Contract Code provides: “If the estimated total cost of any construction project or work carried out under this section exceeds twenty-five thousand dollars (\$25,000), the district or agency shall solicit bids in writing and shall award the work to the lowest responsible bidder or

reject all bids. (Pub. Cont. C. § 10108) (emphasis added).¹

A public agency's compliance with the competitive bidding requirements of Public Contract Code §10108 is mandatory, and a contract solicited or awarded in contradiction of the terms of the statute is void and unenforceable as being in excess of the agency's power. (*Miller, supra*, at 87-88.)

IV. BID REQUIREMENTS

Coffman's bid was fully responsive to the written Bid Instructions and statutory requirements. It contained no mistake or irregularity. Caltrans' Bid Instructions (which included Caltrans' Standard Specifications and Amendments thereto) directed bidders to submit at the time of bid: "Business name and location and description of portion of subcontracted work on the Subcontractor List." Bidders were directed to submit, no later than 24 hours after bid opening, "Bid item nos. and percentage of item subcontracted on the Subcontractor List." (Amended Standard Specif. § 2-1.33)

The Bid Instructions directed bidders to:

Complete forms in the Bid book. Submit the forms with your bid.

On the Subcontractor List you may either submit the percentage of each bid item subcontracted with your bid or fax the percentage to (916) 227-6282 within 24 hours after bid opening. (Standard Specification § 2-1.33A).

Bidders were further instructed:

On the *Subcontractor List*, list each subcontractor to perform work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Cont. Code § 4100 et seq.).

The *Subcontractor List* must show the name, address, and work portions to be performed by each subcontractor listed. Show work portions by bid item number, description, and percentage of each bid item subcontracted. (Standard Specification § 2-1.33C.)

Caltrans' invitation for bids and review of bids received for this federally funded Contract must comply with Chapter 1 of Title 23 of the United States Code. 23 U.S.C. § 112 states in relevant part:

¹ When *requests for proposals* are solicited, the Public Contract Code requires that state agencies "(a) ... shall include in the request for proposal a clear, precise description of the work to be performed or services to be provided, a description of the format that proposals shall follow and the elements they shall contain, the standards the agency will use in evaluating proposals.... [¶] (b)(3) The contract shall be awarded to the lowest responsible bidder meeting the standards." (Pub. Cont. Code § 10344)

[C]onstruction of each project ... shall be performed by contract awarded by competitive bidding.... Contracts for the construction of each project shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility. No requirement or obligation shall be imposed as a condition precedent to the award of a contract to such bidder for a project, or to the Secretary's concurrence in the award of a contract to such bidder, unless such requirement or obligation is otherwise lawful and is specifically set forth in the advertised specifications. (23 U.S.C.A. § 112(b)(1) (emphasis added.)

The Subletting and Subcontracting Fair Practices Act (the Act) requires bidders for public contracts to list the names of all subcontractors who will perform work in an amount in excess of one-half of one percent of the prime contractor's bid. (Pub.Contract Code, § 4104, subd. (a).) The bidder must also set forth: "The portion of the work which will be done by each subcontractor under this act. The prime contractor shall list only one subcontractor for each portion as is defined by the prime contractor in his or her bid." (Pub. Contract Code, § 4104, subd. (b).)

"The Act permits the prime contractor to define the "portion" of work to be done by each subcontractor." (*Valley Crest Landscape, Inc. v. City Council*, 41 Cal. App. 4th 1432, 1440 (1996), as modified on denial of reh'g (Feb. 21, 1996) The Appellate Court in *Valley Crest* declined to add a requirement to § 4104 (b) to write the "percentage" of subcontracted work in the bid, because "portion" was not defined to mean "percentage" in the statute. *Ibid.*²

Similarly, in the instant case, Caltrans, after the fact, is imposing a requirement that the "portion" of subcontracted work must match the descriptions set forth in the contract Specifications. This is an improper addition of a requirement that is found neither in the statute nor in the Bid Instructions.

V. COFFMAN'S BID WAS RESPONSIVE

A. Coffman was not obligated to list Item 64 work because it is valued less than one half of one percent of Coffman's total bid.

The Act requires bidders for public contracts to list only the names of subcontractors who will perform work in an amount exceeding 0.5 percent of the prime contractor's bid. (Pub. Contract Code, § 4104, subd. (a).) In this case, 0.5 percent of Coffman's total bid is \$50,625. Bid Item 64 is worth just \$4,800—far less than the amount required to be included in the Subcontractor list. As such, Coffman did not have to include this Item in its original bid, and could have subcontracted Item 64 to anyone without violating § 4104. Evidence shows that Coffman intended at bid time to subcontract Item 64 to Statewide, but even if it hadn't so intended, including the Item in the 24-hour

² In *Valley Crest*, the Court refused to allow the city to waive an express requirement stated in the bid documents requiring prime contractor bidders perform at least 50 percent of the work, because the "specification made listing the subcontractor percentages a material element of the bid." (Id. at p. 1443, 49 Cal.Rptr.2d 184.) *MCM Const., Inc. v. City & Cnty. of San Francisco*, 66 Cal. App. 4th 359, 371 (1998). This differs from the instant matter, where the requirement sought to be imposed by Caltrans was not express element of the Bid Instructions.

submittal did not violate the Act and did not render its bid nonresponsive, because the value of it was so little that it wasn't even required to be included in the Subcontractor List at all.

B. Caltrans Cannot Find Coffman's Bid Nonresponsive on Grounds that a "Description" did not Match the Specification Terms, because the Bid Instructions Never Required "Descriptions" to Match the Specification Terms.

"A bid is responsive if it promises to do what the bidding instructions demand." *Taylor Bus Serv., Inc. v. San Diego Bd. of Educ.*, 195 Cal. App. 3d 1331, 1341 (Ct. App. 1987) Responsiveness is determined by the face of the bid. (*Valley Crest Landscape, supra*, at 1438.)

The Bid Instructions never stated or limited what the acceptable "descriptions" of subcontracted work would be for purposes of the bid. Caltrans' bid Instructions do not clearly provide bidders with notice that bids would be evaluated on the basis of criteria not identified in the Instructions regarding how to "describe" the "portions" of subcontracted work or otherwise disclose prior to the submission of bids how to word that description. "Bidders cannot be required to guess at the standards by which they will be measured, and are entitled to expect that the bid that most fully satisfies the specified criteria would be awarded the franchise." (*Eel River Disposal & Res. Recovery, Inc. v. Humboldt*, 221 Cal. App. 4th 209, 235 (2013).)

However, Caltrans based its decision to find Coffman's bid nonresponsive on the fact that Coffman's general description of Statewide's work did not match the elements of work described in the 2010 Revised Standard Specifications. Since the Bid Instructions never directed bidders to describe subcontracted work using only those given "elements of work" written in the Revised Standard Specifications, Caltrans wrongfully imposed a requirement as a condition of responsiveness that was never stated in the Bid Instructions. Such practice is prohibited.

C. Coffman Never Enlarged Statewide's Scope of Work

Coffman's bid was fully responsive on its face in every respect to the Bid documents and Bid Instructions. In its bid, Coffman described Statewide's portion of work as "Construction Area Signs/Roadside Signs (partial)." Caltrans – after bid opening – determined that bidders had to have "described" subcontracted work using terms set forth in the Specifications; and that Coffman, by not using such terms in its Subcontractor List at bid time, "enlarged" Statewide's scope of work when Coffman included Bid Item 64 (Guard Railing Delineators) in the 24 hour submittal.³

Item 64 is related to Construction Area Signs and Roadside Signs, the portion of Statewide's work described in Coffman's bid. Guardrail delineators are safety and traffic control-related items that are regularly described in bids in the manner Coffman described it in this bid. This description has been accepted by Caltrans in past bids (for contracts that Caltrans awarded to Coffman), proving Caltrans' agreement that guard railing delineators relate to Construction Area Signs and Roadside

³ Caltrans gives no authority in its decision for the proposition that a listed Subcontractor's scope of work cannot be "enlarged" at all—not even by the addition of work that is less than one half of one percent of the total bid amount.

signs sufficiently for purposes of submitting a responsive bid.⁴

Coffman always intended Item 64 to be within Statewide's scope as evidenced by Statewide's quote for the work. That a traffic safety and construction area and roadside signs subcontractor is offering to provide guard railing delineators further proves that Statewide – the subcontractor performing the work – also believes that guard railing delineators are related to the described work.

The undisputed facts show that Coffman's bid was responsive. The Bid documents don't direct how to describe the general work description that must be used for each subcontracted Bid Item. Hence, Coffman has not failed to comply with any direction given in the bid. Caltrans' assertion to the contrary is arbitrary and is unsupported. Caltrans has no authority to award the Contract to any other entity who submitted a bid for this Project.

D. Caltrans' Determination Thwarts the Purpose of Bidding Requirements

The intent of the Bid for this Contract is to place all bidders on a level playing field, and award the Contract to the lowest bidder based upon the price offered in the bids. Caltrans's Bid instructions state: "For a unit price based bid, the Department compares bids based on the sum of the item totals." (Amended Standard Specification (2010) § 3-1.02A.)

"Statutes and ordinances that authorize or require competitive bidding in the letting of public contracts ordinarily serve the purpose " 'of inviting competition, to guard against favoritism, improvidence, extravagance, fraud and corruption, and to secure the best work or supplies at the lowest price practicable.' " (*Domar Electric, Inc. v. City of Los Angeles* (1994) 9 Cal.4th 161, 173.) Such measures "are enacted for the benefit of property holders and taxpayers, and not for the benefit of or enrichment of bidders, and should be so construed and administered as to accomplish said purpose fairly and reasonably with sole reference to the public interest. These provisions are strictly construed by the courts, and will not be extended beyond their reasonable purpose. Competitive bidding provisions must be read in the light of the reason for their enactment, or they will be applied where they were not intended to operate and thus deny municipalities authority to deal with problems in a sensible practical way.' [Citation.] Thus, charters requiring competitive bidding are not to be given such a construction as to defeat the object of insuring economy and excluding favoritism and corruption. [Laws] requiring competitive bidding are not to be given such a construction as to defeat the object of insuring economy and excluding favoritism and corruption. [Citations.]" (*Ibid.*)" (*Eel River Disposal, supra*, at 232.)⁵

⁴ In Griffith/Coffman Joint Venture's bid for Contract 08-472224, Statewide was listed to perform "Construction Area Signs & Related." Related included Item 138 "Guard Railing Delineator." Caltrans accepted the bid, thereby agreeing that Guard Railing Delineators were "related" to "Construction Area Signs & Related."

⁵ In *Eel River*, the Appellate Court (reversing the trial court's ruling), held that, by interpreting a local ordinance so as to eliminate the "lowest responsible bidder" requirement of competitive bidding, "the trial court extended the reach of [Pub. Res. Code] section 40059 into an area in which it was not intended to operate, and in so doing defeated the object of insuring economy and excluding favoritism and corruption in the letting of public contracts." (*Eel River, supra*, at 232-33.) Caltrans similarly defeats the object of competitive bidding by choosing to label bids nonresponsive based on criteria that are not stated anywhere in the Instructions to bidders.

The purpose of requiring governmental entities to open the contracting process to public bidding is to eliminate favoritism, fraud and corruption; avoid misuse of public funds; and stimulate advantageous market place competition. Because of the potential for abuse arising from deviations from strict adherence to standards which promote these public benefits, the letting of public contracts universally receives close judicial scrutiny and contracts awarded without strict compliance with bidding requirements will be set aside. (*MCM Const., Inc. v. City & County of San Francisco* (1998) 66 Cal. App. 4th 359, 369, citing *Konica Bus. Machines U.S.A. Inc. v. Regents of Univ. of California* (1988) 206 Cal. App. 3d 449, at pp. 456-457.)

“[T]he 1968 amendments [to 23 U.S.C. § 112(b)(1)] are better understood to address only one particular axiom of competitive bidding — that a requirement or obligation not be imposed as a condition precedent to the award of a contract, or to the Secretary's concurrence in the award, “unless such requirement or obligation is otherwise lawful and is specifically set forth in the advertised specifications.” 23 U.S.C. § 112(b)(1). (*Competitive Bidding Requirements Under the Fed.-Aid Highway Program*, 2013 WL 8018347, at *11 (O.L.C. Aug. 23, 2013).)

The Legislature sought to end “grave uncertainty about the exact nature of the legal obligation and requirements which may be imposed upon the low bidder on Federal-aid highway projects.” S. Rep. No. 90-1340, at 16 (1968), *reprinted in* 1968 U.S.C.C.A.N. 3482, 3497; *see also* H.R. Rep. No. 90-1584, at 13 (1968) (“No State can expect to conduct competitive bidding unless it is able to say, when it advertises for bids, what the requirements of the contract will be. No contractor can be expected to bid responsively unless he knows, when he prepares his bid, what the contract will require of him.”). To address this concern, the 1968 amendments prohibited any requirements except those “specifically set forth in the advertised specifications,” drawing on language from a Comptroller General letter describing the obligation to set forth the “specific and definite minimum requirements” of a contract in the invitation to bid. (*Competitive Bidding Requirements Under the Fed.-Aid Highway Program*, *supra*, at *11.) (Emphasis added.)

In a letter opinion, the Comptroller General wrote:

“the basic principles of competitive bidding require that bidders be assured that award will be made only on the basis of the low responsive bid submitted by a bidder meeting established criteria of responsibility, including any additional specific and definite requirements set forth in the invitation, and that award will not thereafter be dependent upon the low bidder's ability to successfully negotiate matters mentioned only vaguely before the bidding.”

To Rep. William C. Cramer, 47 Comp. Gen. 666, 670 (1968), *quoted in* H.R. Rep. No. 90-1584, at 51, and 114 Cong. Rec. 19,398-99 (1968) (statement of Rep. Cramer). (*Competitive Bidding Requirements Under the Fed.-Aid Highway Program*, *supra*, at *16.)

For Caltrans to reject the bid of a qualified and responsible lowest monetary bidder in favor of a higher bidder on the basis that Coffman did not “describe” subcontracted work in a manner Caltrans instructed only after bid opening frustrates the very purpose of competitive bidding laws and violates the requirement to award the contract to the lowest responsible bidder, and the interest of

the public in having public works projects awarded without favoritism, without excessive cost, and constructed at the lowest price consistent with the reasonable quality and expectation of completion.

VI.

A CONTRACT AWARDED TO ANYONE OTHER THAN COFFMAN WILL BE VOID

The Bid Instructions and applicable statutes prescribed the method bidders were to prepare bids for the Contract and the method Caltrans would review them. Any other method of review is prohibited; and any contract attempted to be made is void because the statute prescribes the only method in which a valid contract can be made, and the adoption of the prescribed mode is a jurisdictional prerequisite to the agency's exercise of the power to contract at all. "Where the statute prescribes the only mode by which the power to contract shall be exercised, the mode is the measure of the power." A contract made other than as prescribed is not binding or obligatory. (*Miller v. McKinnon*, supra, at 91-92.)

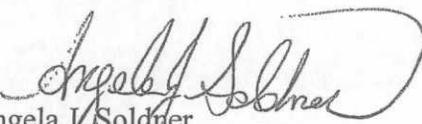
Reading the Bid specifications as a whole and the listing requirements, there is no stated direction to describe subcontracted work in any other manner than that which was done by Coffman. Coffman described the subcontracted work in a manner it had done in the past and Caltrans accepted. Thus, its Bid was responsive. Nothing in Coffman's bid was nonconforming or nonresponsive.

VII.

CONCLUSION

Federal and California law require that Coffman be afforded proper notice to protest and be heard on the merits of Caltrans' finding that Coffman's bid is nonresponsive. The Bid Instructions and law require Coffman's bid be accepted and the Contract be awarded to Coffman as the lowest, responsible bidder who submitted a responsive bid. Common sense and the legislative purpose of competitive bidding requirements require awarding the Contract to Coffman rather than the second lowest bidder, to prevent unnecessary and illegal expenditure of \$843,461.50 on this Contract. We respectfully request that Caltrans withdraw its finding and award the Contract to Coffman as the lowest responsible bidder.

Very truly yours,


Angela J. Soldner
General Counsel

Enclosures:

1. Bid Results
2. Coffman' bid documents dated 10/16/14 (bid day) printed at 1:58 p.m., and quotes
3. Griffith/Coffman JV bid documents for 08-472224
4. Coffman bid documents for 11-406904
5. Coffman correspondence to Caltrans

DEPARTMENT OF TRANSPORTATION
 DIVISION OF ENGINEERING SERVICES
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 SACRAMENTO, CA 95816-8041
 PHONE (916) 227-6300
 FAX (916) 227-6282
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January 9, 2015

Facsimile: (858) 536-3131

Colleen Coffman, President
 Coffman Specialties, Inc.
 9685 Via Excelencia, Suite 200
 San Diego, CA 92126

11-275504
 11-SD-67-R0.0/R5.9
 B.O. 10/16/2014

Dear Ms. Coffman:

The California Department of Transportation (Caltrans) is in receipt of letters dated December 24, 29, 2014, and January 4, 2015, addressed to me, and January 2, 2015, addressed to the Director of Caltrans, Malcolm Dougherty, from Coffman Specialties, Inc. (Coffman), protesting a nonresponsive bid finding and subsequent award of Contract 11-275504 to Hazard Construction (Hazard).

As you are aware, Contract 11-275504 was awarded to Hazard Construction on November 23, 2014. The decision to award to Hazard was based on its bid being responsive and having met all of the requirements for award. The advertisement of this contract and subsequent award were done in accordance with the State Contract Act.

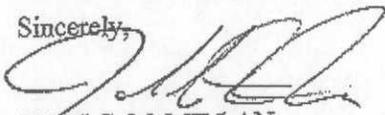
As the protest relates to the requirement of Notice, Coffman on its own merit provided Caltrans with a response to Hazard's protest on November 3, 2014. Having received that response, Caltrans did not seek a secondary response. Furthermore, the requirement of Notice as mentioned in Coffman's protest only applies to contracts advertised and awarded under the State Acquisitions of Goods and Services Act.

In our previous correspondence to Coffman dated December 19, 2014, the bid submitted by Coffman was found nonresponsive because the Subcontractor's List form, which was submitted as part of the bid contained items of work on the second submission that were not covered by the Description of the Portion of Work on the bid day submission.

Caltrans found the inclusion of the additional item after submission of the bid enlarged the scope of work to be performed by the subcontractor and is a violation of the bidding instructions as well as the Public Contract Code. Therefore, it remains the finding of Caltrans that the bid submitted by Coffman is nonresponsive.

If you have any questions regarding this matter, please contact Earl Seaberg, Chief, Office of Contract Awards and Services at (916) 227-6280.

Sincerely,


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