



GENERAL ENGINEERING LIC. NO 668013

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May 16, 2014

Laurie Berman
District Director
District 11
Department of Transportation (Caltrans)
4050 Taylor Street, MS 120
San Diego CA 92110

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

RE: Response to VSS International's Letter dated May 13, 2014 regarding
Caltrans Contract No. 11-2M5104, Location 11-IMP-86-11.3/20.6

Dear Ms. Berman and Mr. McMillan:

I am in receipt of VSS International's (VSS) letter dated May 13, 2014.

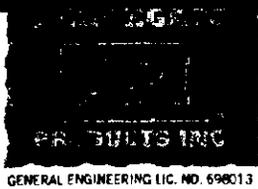
VSS's analysis is flawed from the onset. The basis of determining a mathematically and/or materially unbalanced bid is the analysis of the bid in question, not a comparison to other bids submitted for the project.

By way of example, if this particular project received a sole and only bid from VSS, could VSS's bid be determined to be mathematically and materially unbalanced based solely upon review of the VSS bid? The answer is yes. If two bids are required to perform the analysis, it would be impossible to reject a mathematically and materially unbalanced bid on any project with only a single bid regardless of the magnitude of the imbalance. As an example, if a sole and only bidder submitted a bid with a \$5,000,000.00 lump sum bid item, bid all the other unit bid items at \$0.01 per unit, and because there were no other bids to compare to, under VSS's theory, the government could not deem the sole and only bid to be mathematically and materially unbalanced. This is clearly contrary to the intent of the statutes and the RTL Guide. Evaluating VSS' bid submitted for this project leads to the inescapable conclusion that it is mathematically and materially unbalanced. Therefore, its bid must be rejected. VSS incorrectly interprets the RTL Guide provision cited in their letter. The lowest ultimate cost to the government is determined solely by an analysis of the bid in question or under protest. Multiple bids are not necessary to make the analysis of a mathematically and/or materially unbalanced bid. Any other analysis comparing other bids to the unbalanced bid in question would be subjective and ripe for multiple interpretations.

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The issue at hand is not a comparison of VSS's bid to Aggregate Products Inc.'s bid, but rather an analysis of VSS's bid to determine if by the extreme unbalancing evidenced in VSS's bid for Items 23 and 27, did VSS deny Caltrans the appropriate



reduction dollar values in credit when these bid items reduced to what, by VSS's own admission, to quantities of approximately 50 percent of the original bid item. As set forth in my April 29, 2014 letter, the answer is that by the manner VSS unbalanced these bid items, Caltrans will be denied the appropriate reduction credit, therefore, rendering VSS's bid both mathematically and materially unbalanced.

The RTL is specific to the method of determination:

"A bid is materially unbalanced if there is reasonable doubt that award to the bidder submitting the mathematically unbalanced bid will result in the lowest ultimate cost to the Government."

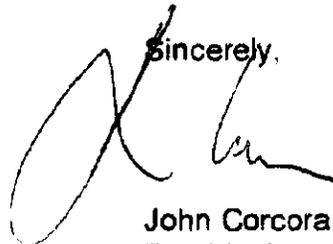
If the RTL guidelines intended to evaluate the mathematically and materially unbalanced bid in question compared to other bids in the bid ranking, it would have expressly said so in its verbiage. It does not.

For purposes of this exercise, Caltrans should evaluate VSS's bid solely on whether it is mathematically and materially unbalanced, and render its decision based upon the express language set forth in the RTL guide. No other factors including other bidder's pricing, should be considered. Additionally, Caltrans appears to have a past practice of evaluating an unbalanced bid solely based upon the bid in question, and not as a comparison to other bids. Once the unbalanced bid is rejected, Caltrans can evaluate the remaining bids to see if it is in its best interests to award the project. Obviously, if Caltrans decides that it prefers to not award to the resulting lowest responsive and responsible bidder submitting a bid, it has the sole and unilateral authority to reject all bids.

In summary, Caltrans should either reject VSS's bid as being mathematically and materially unbalanced and award it to Aggregate Products Inc. as the lowest responsive and responsible bidder, or reject all bids.

Thank you for your consideration to these matters.

Sincerely,



John Corcoran
President

JC/adm.



AGGREGATE PRODUCTS INC.

General Engineering License No. 698013

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FACSIMILE TRANSMITTAL SHEET

TO: John C. McMillan		FROM: JOHN CORCORAN	
COMPANY OR AGENCY: DEPARTMENT OF TRANSPORTATION (CALTRANS)		DATE: 5/16/2014	TIME: 3:16:21 PM
FAX NUMBER: (916) 227-6282	PHONE NUMBER: (916) 227-6300	NUMBER OF PAGES INCLUDING COVER: 3	
SUBJECT: Response to VSS International's Letter dated May 13, 2014 regarding Caltrans Contract No. 11-2M5104, Location 11-IMP-86-11.3/20.6			
<input type="checkbox"/> As Requested		<input type="checkbox"/> For Your Use	
<input type="checkbox"/> For Discussion		<input type="checkbox"/> Please Call	
<input type="checkbox"/> Per Telephone Conversation		<input checked="" type="checkbox"/> Other	
<input type="checkbox"/> For Your Information		<input type="checkbox"/> For Your Comments	

MESSAGE:

Please find enclosed a letter to Laurie Berman of Caltrans and John C. McMillan of Caltrans regarding Response to VSS International's letter dated May 13, 2014 regarding Caltrans Contract No. 11-2M5104, location 11-IMP-86-11.3/20.6.

Thank you.

Original of this Fax:

WILL FOLLOW BY FEDERAL EXPRESS WILL NOT FOLLOW

Fax sent by:

Alejandra D. Mattoni

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