

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER

1727 30th STREET, MS-43

P.O. BOX 168041

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6299

FAX (916) 227-6282

TTY 711

www.dot.ca.gov

*Serious drought.
Help save water!*

April 17, 2015

Facsimile: (858) 453-6034

Jason A. Mordhorst, President
Hazard Construction Company
6465 Marindustry Drive
San Diego, CA 92121

11-405504
11-SD-8-6.9/8.2
B.O. 04/02/2015

Dear Mr. Mordhorst:

The Department of Transportation (Caltrans) received the attached letter dated April 17, 2015, from Coffman Specialties, Inc. (Coffman) protesting the failure to list a subcontractor for the rebar portion of work for bid item 73, Cast-In-Drilled-Hole Concrete Piling. Coffman's protest alleges Hazard failed to list any subcontractor to perform item 73 rebar work. As such Coffman requests that Hazard be found non-responsive.

Please provide your response to Coffman's protest no later than April 22, 2015.

If you have any questions, please contact Mulissa Smith, Contract Awards Branch Chief, 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

Attachment



COFFMAN SPECIALTIES, INC.

GENERAL AND ENGINEERING CONTRACTORS

April 17, 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: Bid Protest of Apparent Low Bidder and Second Low Bidder
Contract #11-405504; Rte. 8 Waring Road, Caltrans

Dear Mr. McMillan:

Please consider this correspondence as Coffman Specialties, Inc.'s ("Coffman") formal protest of Hazard Construction's ("Hazard") and Flatiron West, Inc.'s ("Flatiron") bids, submitted on April 3, 2015, for Caltrans Contract No. 11-405504 (Rte. 8, Waring Rd to College Ave. project). The three lowest bids submitted were as follows, with Coffman's as the third lowest—and the lowest responsive—bid:

Bidding Contractor	Bid Total	Δ from low bid
Hazard Construction	\$5,244,784.50	low bid
Flatiron West, Inc.	\$5,603,289.52	\$358,505.02
Coffman Specialties, Inc.	\$5,755,000.00	\$510,215.50

Bid Instructions Concerning Subcontractor List

The Subcontracting and Subletting Fair Practices Act (Public Contract Code §§ 4100 – 4114) and the Bid Documents for this Contract require bidders to list *all* subcontractors who will perform in excess of one half of one percent of the bidder's total contract price. The Revised 2010 Standard Specifications (amended by Addendum) directed bidders as follows:

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. California contractor license number for a non-federal-aid contract.
3. Department of Industrial Relations' registration number.
4. Portion of work it will perform. Show the portion of the work by:
 - 4.1. Bid item numbers for the subcontracted work



WBE

John McMillan
California Dept. of Transportation
April 17, 2015
Page 2 of 3

- 4.2. Percentage of the subcontracted work for each bid item listed
- 4.3. Description of the subcontracted work if the percentage of the bid item listed is less than 100 percent

(Contract, Section 2-1.10 of the Revised Standard Specifications Dated 10-17-14 as amended per Addendum No. 2 Dated February 25, 2015.)¹ Similarly, Public Contract Code § 4104 requires bidders to list the name and address of each subcontractor who will provide work or labor to the project 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), and the portion of the work that will be done by each listed subcontractor.

Hazard's Bid Was Non-Responsive

Hazard's bid did not comply with the directions to list subcontractors who will perform work on the Contract.

The bid documents identified Bid Item 73 as "16" Cast-in-drilled-hole (CIDH) Concrete Piling" (estimated quantity: 2,200 LF). Hazard's bid price for Item 73 was \$85/LF. Hazard listed Western Foundations and Shoring, Inc. ("Western Foundations") as its subcontractor to perform 100% of Bid Item 73. However, Hazard did not list a subcontractor to perform the necessary rebar work required as part of Item 73. (Hazard's bid is attached hereto as "A").

Hazard's CIDH Piling subcontractor, Western Foundation, whom Hazard listed to perform 100% of Item 73 work, expressly excluded "reinforcing cages" from its scope of work (see Western Foundation's quote to Coffman for this Contract, Attachment "B"). Thus, Hazard failed to list any subcontractor to perform the Item 73 rebar work.

Coffman listed Gerdau and The Mahaffey Companies as its subcontractors to each perform a portion of Item 73. Gerdau quoted \$15.6373/LF to supply tied rebar cages.

Hazard's bid price is \$5,244,784.50; one half of 1% is \$ 26,223.92. Using Gerdau's price of +/- \$34,408.00 for tied rebar cages, the value of the rebar work exceeds ½ of 1%. Thus, Hazard was obligated to list, at bid time, the subcontractor who will perform the rebar cage work, but Hazard failed to do so. (Western Foundation was not that subcontractor, as it excluded such work from its quote and price.)

Since Hazard did not identify a subcontractor to perform the rebar work under Item 73, it will be forced to improperly expand the stated intended scope of Western Foundation's work, after bid, or to hire a new subcontractor (not listed in the bid) to provide and install the rebar cages. Hazard's bid price for Item 73 exceeds Western Foundation's quote by approximately \$81,400.00, indicating Hazard plans to purchase the rebar cages from a separate subcontractor.

¹ Bid item numbers and percentage of bid item subcontracted may be submitted up to 24 hours after bid opening. (Bid Form Submittal Schedule, Special Provisions, section 2-1.33.)

John McMillan
California Dept. of Transportation
April 17, 2015
Page 3 of 3

Hazard also omitted listing a rebar subcontractor to provide rebar for Items 75 ("Approach Slabs"), 76 ("Minor Concrete") or 77 ("Paving Notches"). Hazard only listed Bert W. Salas to perform 64% of Item 76 – describing Salas' portion of work as "Storm Drain Structures."

By not listing a rebar subcontractor, Hazard's bid is not in compliance with the bid instructions, rendering Hazard's bid nonresponsive.

Flatiron's Bid is Non-Responsive

Flatiron's bid (Attachment "C") listed Gerdau to perform just 25% of Item 73 (for the portion of work Flatiron described as 'Rebar for 16" CIDH Concrete Piling' (emphasis added)), but listed no subcontractor to perform the specialty piling work which is a major component of the Item. Had Flatiron intended Gerdau to perform the piling, its "description of the subcontracted work if the percentage of the bid item listed is less than 100 percent" required by the bid instructions would necessarily have been closer to 100% of the item work rather than 25%. To Coffman's knowledge, Gerdau does not perform piling work; and neither does Flatiron.

Additionally, Flatiron listed Advanced Concrete Sawing & Sealing, Inc. (Advanced Concrete) to perform only 59% of Item Item 71 ("Isolation Joint Seal (Silicone)"). Flatiron's bid limited the description of Advanced Concrete's subcontracted work to the "Deep Saw Isolation Joint." In doing so, Flatiron expressly omitted the seal work from Advanced Concrete's scope, and it failed to list any other subcontractor to seal the Isolation Joint. Flatiron must now either hire another subcontractor who was not included in the mandatory subcontractor list or increase the scope of Advanced Concrete's intended work after bid – neither which is permitted by the bid documents.

By omitting a CIDH piling subcontractor or an Isolation Joint Sealant subcontractor, Flatiron did not comply with the bid instructions, rendering Flatiron's bid nonresponsive.

As explained above, it is impossible to determine what work is being subcontracted by Hazard or Flatiron; and both bidders gained a competitive advantage by being able to enlarge and/or reduce scope of work for their listed subcontractors after bid-opening. Caltrans must therefore find Hazard's and Flatiron's bids nonresponsive; and Caltrans should award the Contract to Coffman as the lowest responsive and responsible bidder, having met all the requirements of the Contract.

If you have any questions regarding these matters, please feel free to contact me at the main office. Thank you for your attention to this matter.

Sincerely,



Martin Keane

Encls.

TRANSMISSION VERIFICATION REPORT

TIME : 04/17/2015 17:08
NAME : OE AWARDS
FAX : 9152276320
TEL : 9152276299
SER. # : BROM3J484361

DATE, TIME	04/17 17:06
FAX NO. /NAME	918584536034
DURATION	00:01:48
PAGE(S)	04
RESULT	OK
MODE	STANDARD ECM

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN, Jr., Governor

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER
1727 30th STREET, MS-43
P.O. BOX 168041
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6299
FAX (916) 227-6282
TTY 711
www.dot.ca.gov



*Serious drought.
Help save water!*

April 17, 2015

Facsimile: (858) 453-6034

Jason A. Mordhorst, President
Hazard Construction Company
6465 Marindustry Drive
San Diego, CA 92121

11-405504
11-SD-8-6.9/8.2
B.O. 04/02/2015

Dear Mr. Mordhorst:

The Department of Transportation (Caltrans) received the attached letter dated April 17, 2015, from Coffman Specialties, Inc. (Coffman) protesting the failure to list a subcontractor for the rebar portion of work for bid item 73, Cast-In-Drilled-Hole Concrete Piling. Coffman's protest alleges Hazard failed to list any subcontractor to perform item 73 rebar work. As such Coffman requests that Hazard be found non-responsive.

Please provide your response to Coffman's protest no later than April 22, 2015.

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

Sincerely,

A handwritten signature in black ink, appearing to be "M. Smith", written over a horizontal line.