



Phone (858) 587-3600
Fax (858) 453-6034
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San Diego, CA 92121
hazardconstruction.com
License No. 750542A/B

October 29, 2014

Department of Transportation
Division of Engineering Services
Office Engineer, MS 43
1727 30th Street
Sacramento, CA 95816
Attn: John C. McMillan

Re: Bid Protest of Apparent Low Bidder
Caltrans Contract 11-406904

Dear Mr. McMillan:

Hazard Construction ("Hazard") has reviewed the bid forms as submitted by the apparent low bidder, Nicholas Grant Corp DBA Daley Corporation ("Daley") and asks that Caltrans find Daley non-responsive due to enlarging the scope of work by listing items of work under column 4 on the 24-hour Subcontractor List form which are in direct conflict with the Subcontractor List form submitted at bid time thereby creating a violation of the Subletting and Subcontracting Fair Practices Act of the Public Contract Code.

The Subcontractor List form states in part, "The Bidder must submit within 24 hours of the bid opening, the bid item numbers with percentages of the portion of the work subcontracted."

At bid time, Daley submitted a Subcontractor List form, listing Payco Specialties Inc. under column one and listed the Description of Portion of Work to be performed under column 3 to be "Striping & Bridge Deck Prep (portion)" (Exhibit 1). Within the 24-hours after the close of bid allotted by Caltrans to submit Columns 4 & 5, Daley submitted a revised Subcontractor List providing, under column 4, the Bid Items 5,15,19,53,54,55,56,57,58,59,60,63 (Exhibit 2). Daley enlarged the scope of work of a listed subcontractor beyond the description provided at bid time to include Bid Item 5 - Traffic Control System at 7.81%. Traffic Control is clearly not related to permanent striping or bridge deck preparation. In fact, on the same page, Daley listed Statewide Safety & Signs for traffic control, construction area signs and crash cushions. It is clear that, at bid time, Daley did not intend to subcontract traffic control to Payco Specialties, but was afforded a competitive advantage after the bid by being able to reduce scope from one subcontractor and increase scope of another subcontractor in order to make the stated DBE goal for the project.

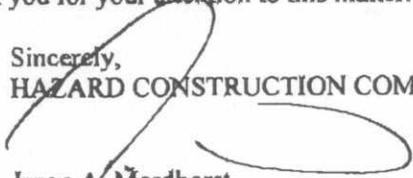
Finally, at bid time, Daley submitted a Subcontractor List form, listing Payco Specialties Inc. under column one and listed the Description of Portion of Work to be performed under column 3 to be "Striping & Bridge Deck Prep (portion)" (Exhibit 1). Within the 24-hours after the close of bid allotted by Caltrans to submit Columns 4 & 5, Daley submitted a revised Subcontractor List providing, under column 4, the Bid Items 5,15,19,53,54,55,56,57,58,59,60,63 (Exhibit 2). However, on its Disadvantaged Business Enterprise (DBE) Commitment Form, which is unsigned, Daley listed Payco Specialties to perform Bid Items 1,5,15,19,53,54,55,56,57,58,59,60,63 (Exhibit 3). It is impossible for Caltrans to determine what work was being subcontracted based on this inconsistency.

In summary, it is impossible to determine what work is being subcontracted by Daley and Daley was afforded a competitive advantage by being able to enlarge the scope of work for the listed subcontractors after the bid. For these reasons stated above, Hazard Construction hereby protests any award to Daley and asks that Daley's bid be deemed as nonresponsive and award the contract to Hazard, the true apparent low bidder, having met all of the requirements of the contract.

Caltrans has previously set precedence on this very issue on many other contracts including most recently on Contract 03-4M5804 where O.C. Jones & Sins, Inc. was found non-responsive due to enlarging the scope of work 24 hours after bid. (Exhibit 4), Contract 03-3E1004 where Granite Construction Company was found non-responsive due to enlarging the scope of work 24 hours after bid. (Exhibit 5), Contract 08-0F6604 where Sully Miller Contracting Company was found non-responsive due to enlarging the scope of work 24 hours after bid. (Exhibit 6) and Contract 11-408904 where Peterson-Chase General Engineering was found non-responsive due to inconsistencies' between the Subcontractor List and the Disadvantaged Business Enterprise (DBE) Commitment Form (Exhibit 7).

If you have any questions regarding any of these matters or need further clarification, please do not hesitate to call me at the main office. Thank you for your attention to this matter.

Sincerely,
HAZARD CONSTRUCTION COMPANY


Jason A. Mordhorst
President

Attachments
cc: Bid File

EXHIBIT 1

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 11-406904 Project ID: 1100020391

Bidder Name: Unknown

Bidder ID: VC0000101462

List this sub? Yes

4) Business Name Payco Specialties Inc
Location City Chula Vista State CA
California Contractor License Number (a)

Description of Portion of Work
Striping & Bridge Deck Prep (portion)

Bid Item Numbers

Percentage of Bid Item Subcontracted

List this sub? Yes

5) Business Name Statewide Safety & Signs
Location City Poway State CA
California Contractor License Number (a)
Description of Portion of Work

Traffic Control & Construction area signs, Crash cushions
Bid Item Numbers

Percentage of Bid Item Subcontracted

Received

EXHIBIT 2

Oct 22 2014 09:42am

From: DALEY CORP. - ESTIMATING

019 2nd 2001

10/22/2014 08:50

#086 P.006/008

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 11-406904 Project ID: 1100020391

Bidder Name: Unknown

Bidder ID: VC0000101462

List this sub? Yes

4) Business Name Payco Specialties Inc
Location City Chula Vista State CA
California Contractor License Number (a) 298637
Description of Portion of Work

Striping & Bridge Deck Prep (portion)

Bid Item Numbers

5 Traffic Control

Percentage of Bid Item Subcontracted

7.81

Bid Item Numbers

15, 19, 53, 54

Percentage of Bid Item Subcontracted

97.56, 94.74, 96.15, 97.22

Bid Item Numbers

55, 56, 57

Percentage of Bid Item Subcontracted

94.74, 96.67, 96.77

Bid Item Numbers

58, 59, 60

Percentage of Bid Item Subcontracted

96.97, 98.36, 98.36

Bid Item Numbers

63

Percentage of Bid Item Subcontracted

4.16

List this sub? Yes

5) Business Name Statewide Safety & Signs
Location City Poway State CA
California Contractor License Number (a) 975518
Description of Portion of Work

Traffic Control & Construction area signs, Crash cushions

Bid Item Numbers

5

Percentage of Bid Item Subcontracted

71.5

Bid Item Numbers

4

Percentage of Bid Item Subcontracted

97

Bid Item Numbers

6

Percentage of Bid Item Subcontracted

97.22

Bid Item Numbers

9

Percentage of Bid Item Subcontracted

97.06

Bid Item Numbers

45 - Object marker (Type P)

Percentage of Bid Item Subcontracted

100

? 1? - Lead Compliance Plan

EXHIBIT 3

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 11-406904 Project ID: 1100020391

Bidder Name: Unknown

Bidder ID: VC0000101462

CALTRANS BIDDER - DBE - COMMITMENT

10-24-14A10:08 RCVD

DES-OE-0102.10C (NEW 6/2012)

Low Bidder

BID AMOUNT: 9,099,685.68

BID OPENING DATE: 10-21-14

DBE PRIME CONTRACTOR CERTIFICATION:

IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Names of the First Tier DBE Subcontractors and their respective item(s) of work listed must be consistent, where applicable, with the names and items of work in the Subcontractor List. Copies of the DBE quotes are required.

1. DBE prime contractors must enter their certification number and indicate all work to be performed by DBEs including work performed by its own forces.
2. If 100% of item is not to be performed or furnished by DBE, describe exact portion of item to be performed or furnished.

Total Claimed Participation \$ 646,557.00

% 7.10

Person to Contact : Shannon Pullaro
(Area Code) Tel.No. : 619-328-1366

No Signature

Signature of Bidder

Date

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 11-406904 Project ID: 1100020391
Bidder Name: Unknown
CALTRANS BIDDER - DBE - COMMITMENT
DES-OE-0102.10C (NEW 6/2012)

Bidder ID: VC0000101462
10-24-14A10:08 RCVD

Bid Item No.

✓ 31 - 36

Item of work and description of services to be subcontracted or materials to be provided.

✓ Place AC Dike and Misc Area
FOR CALTRANS USE ONLY

Name of DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)

A. C. Dike Co., CT # 000219
2788 /vebtyre Dr, Lincoln, CA 95648
916-652-0159
Dollar amount DBE 94,910.00

Bid Item No.

61, 62

Item of work and description of services to be subcontracted or materials to be provided.

Detector Loops
FOR CALTRANS USE ONLY

Name of DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)

Traffic Loops Crackfilling, Inc # 38033
946 S. Emerald Street, Anaheim CA 92804
714-520-4026
Dollar amount DBE 5,000.00

Not Listed at Bid Time

Bid Item No.

1 Portion, 5 Portion, 15, 19, 53 - 60, 63 Portion

Item of work and description of services to be subcontracted or materials to be provided.

Lead Plan, Traffic Control (Portion), prep bridge deck (Porti, striping, marker
FOR CALTRANS USE ONLY

Items added from Bid Time

Name of DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)

Payco Specialties Inc CT # 102
120 North Second Ave., Chula Vista, CA 91910
619-422-9204
Dollar amount DBE 152,852.00

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 11-406904 Project ID: 1100020391
Bidder Name: Unknown
CALTRANS BIDDER - DBE - COMMITMENT
DES-OE-0102.10C (NEW 6/2012)

Bidder ID: VC0000101462

10-24-14A10:08 RCVD

Bid Item No.

26

Item of work and description of services to be subcontracted or materials to be provided.

Purchase & Transport of Liquid Asphalt for HMA
FOR CALTRANS USE ONLY

Name of DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)

LMS Transport CT # 38327
3810 Wacker Dr, Mira Loma, CA

Dollar amount DBE 325,509.00

Bid Item No.

10 & 11

Item of work and description of services to be subcontracted or materials to be provided.

Job Site Management (Portion) and prepare WPCP
FOR CALTRANS USE ONLY

Name of DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)

Alfred Civil Engineering # 41902
7604 Soquel Way, Citrus Heights, CA 95610
916-241-5309

Dollar amount DBE 15,150.00

Bid Item No.

39 & 40

Item of work and description of services to be subcontracted or materials to be provided.

Clean Expansion Joint and Joint seal
FOR CALTRANS USE ONLY

Name of DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)

Austin Enterprise #CT 013602
PO Box 81926, Bakersfield, CA 93380
661-589-1001

Dollar amount DBE 11,086.00

Not listed at bid time

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 11-406904 Project ID: 1100020391
Bidder Name: Unknown
CALTRANS BIDDER - DBE - COMMITMENT
DES-OE-0102.10C (NEW 6/2012)

Bidder ID: VC0000101462
10-24-14 10:08 RCVD

Bid Item No.

1 Portion

Item of work and description of services to be subcontracted or materials to be provided.

Lead Compliance Planb, portion
FOR CALTRANS USE ONLY

Name of DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)

Adanta Inc # 37357
828 School Street, Napa, CA 94559
707-709-8894
Dollar amount DBE 1,250.00

Bid Item No.

7

Item of work and description of services to be subcontracted or materials to be provided.

Portable Changeable Message Sign
FOR CALTRANS USE ONLY

Name of DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)

Flash Traffic Inc CT#30050
PO Box 801360, Santa Clarita, CA 91380
661-262-6003
Dollar amount DBE 40,800.00

Bid Item No.

Item of work and description of services to be subcontracted or materials to be provided.

FOR CALTRANS USE ONLY

Name of DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)

Dollar amount DBE

EXHIBIT 4

STATE OF CALIFORNIA - BUSINESS, TRANSPORTATION AND HOUSING AGENCY

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER, MS 43
1727 30th STREET
P. O. BOX 168041
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6280
FAX (916) 227-6282
TTY 711



*Flex your power!
Be energy efficient!*

March 26, 2014

Facsimile: (510) 526-0990

Greg Souder, Secretary
O.C. Jones & Sons, Inc.
1520 Fourth Street
Berkeley, CA 94710

03-4M5804
03-Sac, Yol-50, 99, 160-Var
B.O. 03/12/14

Dear Mr. Souder:

The Department of Transportation (Caltrans) received a bid submitted by O.C. Jones & Sons, Inc. (O.C. Jones), for Contract No. 03-4M5804 on March 12, 2014. By this letter, Caltrans notifies O.C. Jones, that its bid is nonresponsive.

The Subcontractor List form states in part, "...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 nonresponsive bid."

On bid day O.C. Jones, identified FBD Vanguard, to perform work described as aggregate approach slab. However, on its 24hr Subcontractors list form enlarged the scope of work to include bid item 3, Traffic Control.

Based on the above, Caltrans will proceed to award this contract to the lowest responsible bidder.

Your attention is directed to Section 3-1.04 of the Amendments to the 2010 Standard Specifications. Caltrans is not obligated to offer an extension of the award period for a nonresponsive bid. Should you wish to extend your bid while resolving a nonresponsive finding, you must send your request to the Office Engineer no later than 4:00 p.m., two business days prior to the expiration of your bid.

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

Sincerely,


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

Attachment

EXHIBIT 5

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BRDWIN Jr., Governor

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER

1727 30th STREET, MS 43

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6299

FAX (916) 227-6282

www.dot.ca.gov/hq/esc/oo



Flex your power!
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January 24, 2014

Facsimile: (916) 369-0429

Colin C. Crawford, Chief Estimator

Granite Construction Company

P.O. Box 15287

Sacramento, CA 95851-0287

03-3E1004

03-Pla-080-8.1/37.8

B.O. 11/06/2013

Dear Mr. Crawford:

The Department of Transportation (Caltrans) received a bid submitted by Granite Construction Company (Granite) for Contract No. 03-3E1004 on November 6, 2013. By this letter, Caltrans notifies Granite that its bid is nonresponsive because of a change in the scope of work for one of the subcontractors on the Subcontractor List form.

The Subcontractor List form states in part, "...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 nonresponsive bid." No other revisions to the form are permitted.

On the Subcontractor List form submitted with its bid, Granite identified Myers & Sons Construction (Myers) as only performing work described as Polyester Concrete, Bridge Removals, Raise Bridge, Structure Concrete, Drill & Bond Dowel, Bridge Barrier, and Bar Reinforcing Steel (Bridge Related). However, on the 24-hour Subcontractor List form submitted on November 7, 2013, Bid Item 5 - Traffic Control System, Bid Item 32 - Temporary Concrete Washout, and Bid Item 127 - Joint Seal (MR 1") were added in column 2 as work to be performed by Myers. The inclusion of these bid items in the 24-hour submission enlarge the scope of work that was initially identified in column 4 of the Subcontractor List form submitted with the bid. In addition, Granite identified ABSL as only performing work described as Cold Plane AC. However, on the 24-hour Subcontractor List form, Granite revised the scope of work to include Bid Item 81 - Roadway Excavation. The primary Roadway Excavation location involves lowering the profile under the structure, which means removing all of the structural section and additional material in the native basement soil. The performance of this work is not typically performed under the role of a cold planer. Therefore, the scope of work initially identified to be performed by ABSL was enlarged with the submission of the 24-hour form as this item could not be included under the description of Cold Plane AC. Consequently, these revisions are a violation of the bidding instructions as well as the subcontractor listing laws.

Based on the above, Caltrans will proceed to award the contract to the lowest responsible bidder, provided that all requirements are met.

EXHIBIT 6

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

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



Flax your power!
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March 18, 2014

Facsimile: (714) 578-9672

Raymond Sanchez, Assistant Secretary
Sully-Miller Contracting Company
135 S. State College Blvd., #400
Brea, CA 92821

08-0F6604
08-SBd-247-1.8/9.6
B.O. 02/27/14

Dear Mr. Sanchez:

The Department of Transportation (Caltrans) received a bid from Sully-Miller Contracting Company (Sully-Miller) for contract 08-0F6604 on February 27, 2014. By this letter, Caltrans notifies Sully-Miller that its bid is nonresponsive.

Caltrans 2010 revised Standard Specifications, Section 2-1.33C states in part, "...*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*". In the Percentages of Bid Items Subcontracted, Sully-Miller failed to list the bid item number for work subcontracted to Surface Systems & Instruments.

In addition to the omission above, Sully-Miller on bid day identified Our Valley Fence to perform work described as temporary fence, treated wood work and guard rail. However, on its 24hr Subcontractors list form enlarged the scope of work to include bid item 50, Joint Seal (Preformed Compression). In addition, on bid day identified The Landscape Center to perform work described as tree relocation and plant establishment. However, on its 24hr Subcontractor List form changed the scope of work to street sweeping and reset markers and delineators. The inclusion of the of the additional items after submission of the bid, which changes the scope of work listed on bid day, is a violation of the bidding instructions as well as the Public Contract Code.

Based on the above, Caltrans will proceed to award the contract to the lowest responsible bidder provided that all requirements are met.

Your attention is directed to Section 3-1.04 of the 2010 Standard Specifications. Caltrans is not obligated to offer an extension of the award period for a nonresponsive bid. Should you wish to extend your bid while resolving a nonresponsive finding, you must send your request to the Office Engineer no later than 4:00 p.m., two business days prior to the expiration of your bid.

EXHIBIT 7

STATE OF CALIFORNIA - CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER, MS 43

1727 30th STREET

P. O. BOX 168041

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6299

FAX (916) 227-6282

www.dot.ca.gov/hq/esc/oc



Flex your power!
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October 16, 2013

Facsimile: (949) 252-0266

Dick W. Vogels, President
Peterson-Chase General Engineering Const., Inc.
1792 Kaiser Avenue
Irvine, CA 92614

11-408904
11-SD-5, 15, 52, 56, 78, etc.-Var
B.O. 09/19/2013

Dear Mr. Vogels:

The Department of Transportation (Caltrans) received a bid from Peterson-Chase General Engineering Construction, Inc. (Peterson-Chase) for contract 11-408904 on September 19, 2013. By this letter, Caltrans notifies Peterson-Chase that its bid is nonresponsive because it submitted an inconsistent Subcontractor List and DBE Commitment Form.

The DBE Commitment Form states in part "...Names of the first tier DBE subcontractors and their respective item(s) of work listed above must be consistent, where applicable, with the names and items of work in the Subcontractor List".

Peterson-Chase listed on its Subcontractor List Integrity Rebar Placers (Integrity) to perform bid item numbers 19, 21 and 28 in column 2. However, on its Disadvantaged Business Enterprise (DBE) Commitment Form, Peterson-Chase listed Integrity to perform bid items 20, 21 and 28. Caltrans was unable to determine what work was being subcontracted based on the inconsistency.

Based on the above, Caltrans will proceed to award the contract to the lowest responsible bidder provided that all requirements are met.

Your attention is directed to Section 3-1.04 of the 2010 Standard Specifications. Caltrans is not obligated to offer an extension of the award period for a nonresponsive bid. Should you wish to extend your bid while resolving a nonresponsive finding, you must send your request to the Office Engineer no later than 4:00 p.m. two business days prior to the expiration of your bid.

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

Sincerely,


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

Attachment