

1

Dreambuilder

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Civil Engineering Construction

Bid Protest # 2

Department of Transportation
Office Engineer MS 43
1727 30th Street, Sacramento, Ca 95816
Ph: 916-227-6280 Fax: 916-227-6282
Attn: John C MacMillan

Date: 12/6/2014

Sub: Bid protest for Caltrans Contract # 12-0L92U4
Bid open on 10/30/2014 @ 2:00PM in Sacramento, Ca
Reference: Response to Highland Construction Inc for Contract # 12-0L92U4

Dear Mr. John,

We are submitting formal bid protest # 2 for Contract # 12-0L92U4 for explanation provided by Highland Construction Inc.

1. Highland Construction Inc., provided explanation for Listing after bid on subcontractor List for item # 1 and 11 that they claimed- these 2 items are part of Striping (Partial).

We agree with HCI's comments for item # 1, since item # 1 is not subcontract item & need not to be listed, but item # 11 (Remove Thermoplastic) is separate subcontracting item not related of any striping work, Caltrans also found bid non responsive to Mercer and Fraser Co. for Caltrans Contract # 02-0E5104 and more contractor.

Mercer Fraser listed "Striping" at the time of bid on subcontract List but in 24 hr listing they added "Pavement marker" hence Caltrans declared their bid non responsive (Please see attached letter for determination by Caltrans)

Also Caltrans found non responsive bid on same ground to Gordon N Ball Inc. on another project.

2. Regarding written quote submitted by HCI to meet DBE goal for this contract.

They provided explanation that they can procure quote from qualified DBE any time after bid to meet DBE goal at the time of bid even till completion of contract and they can increase DBE participation in the contract. – **This is not correct**

Yes they can promote and use DBE firms even after bid date but those DBE firms participation can't be counted to achieve set DBE goal for contract at the time of bid,

As per section 3-1.12 clearly states "Provide written confirmation from each DBE that the DBE is participating in the contract. "**Participating in the contract**" means those DBE firms participated in the contract before set bid open date for contract. If DBE firms provided quote after set bid time and date, it can't be considered they were "participating for this contract" at bid time and their quote can't be used to meet project DBE goal.

Yes, these DBE's quotes can be used by prime contractor to increase DBE participation during execution of contract **but not to get advantage to achieve DBE goal % to win contract.**

Standard Specification states:

3-1.12 CALTRANS BIDDER - DBE INFORMATION FORM

Section 3-1.12 applies to a federal-aid contract.

Complete and sign the Caltrans Bidder - DBE Information form included in the contract documents regardless of whether no DBE participation is reported.

Provide written confirmation from each DBE that the DBE is participating in the Contract. A copy of a DBE's quote serves as written confirmation. If a DBE is participating as a joint venture partner, the Department encourages you to submit a copy of the joint venture agreement.

All DBE firms quote listed in our Protest # 1 are procured after bid date and these can't be considered as proper quote as confirmation for DBE participation in this contract,

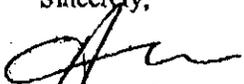
Therefore HCI failed to submit DBE quotes for their listed subcontractor suppliers within 4days time after bid, their bid is a non-responsive bid.

3. On DBE Summary Form, ACE Fence Co. is being claimed by HCI to perform for item # 9, 10, 27 & 28, ACE Fence Co was not listed on subcontractor List, which is inconsistent, hence HCI's bid need be declared as non-responsive bid.

Therefore Dreambuilder is requesting Caltrans to declare Highland Construction Inc. as well as Peterson-Chase General Construction Inc. bids as Non Responsive and award to Dreambuilder

Thank you.

Sincerely,



Alex Singh
Project Coordinator.

(Attachment)

3

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

EDMUND G. BROWN Jr., Governor



*Flex your power!
Be energy efficient!*

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
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October 4, 2012

Facsimile: (707) 443-0277

Justin Zabel, President
Mercer-Fraser Company
PO Box 1006
Eureka, CA 95502

02-2E5104
02-Sha-299-4.3/5.5
B.O. 9/25/12

Dear Mr. Zabel:

Mercer-Fraser Company (Mercer-Fraser) submitted a bid for contract 02-2E5104 on September 25, 2012. By this letter, the Department of Transportation (Caltrans) notifies Mercer-Fraser that its bid is nonresponsive because it failed to properly submit the Subcontractor List.

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.

Apply-A-Line was originally subcontracted to perform Striping and Mobilization, but Pavement Marker was added to the revised bid list received on September 26, 2012. As such, Caltrans finds your bid is nonresponsive. Caltrans will proceed to award this contract to the lowest responsible bidder provided all requirements are met.

Your attention is directed to Section 3-1.02 of the Amendments to the 2006 Standard Specifications. Caltrans is not obligated to offer an extension of the award period for a nonresponsive bid. Should you wish to offer to extend your bid while resolving a nonresponsive finding you must send your request to the Office Engineer no later than 4:00 pm two business days prior to the expiration of your bid.

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

Sincerely,

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

Attachment