

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER
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www.dot.ca.gov



*Serious Drought.
Help save water!*

October 7, 2015

Facsimile: (530) 223-3879

Clayton Olds, Estimator/Project Manager
Stimpel-Wiebelhaus Associates, Inc.
P.O. Box 492335
Redding, CA 96049

01-0B3604
01-Hum-36-35.9
B.O. 08/26/2015

Dear Mr. Olds:

The Department of Transportation (Caltrans) received letters dated September 04, 2015 and October 2, 2015, from Stimpel-Wiebelhaus Associates, Inc. (Stimpel-Wiebelhaus), protesting the bid submitted by Mercer-Fraser Company (Mercer-Fraser). The protest alleges that Mercer Fraser failed to identify a subcontractor to perform work described as Drill Hole (Horizontal Drain), Bid Item 45. The protest further alleges that Mercer-Fraser failed to provide Work Category Codes for its subcontractors identified on the Disabled Business Enterprise (DBE) Commitment form. Lastly, Mercer-Fraser listed AC Dike to perform 100 percent of work described as bid items 34-36; but submitted a quote that indicates, "Place Hot Mix Asphalt Dike Type C, D, F".

Caltrans has reviewed the bid documents submitted by Mercer Fraser and determined the following;

As the protest relates to bid item 45, Public Contract Code section 4106 provides in pertinent part that if a prime contractor fails to specify a subcontractor for a portion of work to be performed, the prime contractor agrees that he is fully qualified to perform the work himself and that he will perform the work himself. Therefore, by failing to list a subcontractor for bid item 45, Caltrans can only draw the conclusion that this item will be performed by Mercer-Fraser.

As the protest pertains to the omission of Work Category Codes of DBE Commitment form, Caltrans agrees that this is a deviation from the bidding instructions however, the deviation is immaterial as it does not give a bidder a competitive advantage. The work codes are only for purposes of evaluating the DBE Commitment to determine if the bidding contractor met goal or made a good faith effort to do so. During the evaluation of the DBE Commitment, the Office of Business and Economic Opportunity looks up and verifies the work codes that have been assigned to each subcontractor listed and determines whether that subcontractor has in fact been certified to perform the type of work listed. Since this is done as part of the DBE evaluation and not in determining the responsiveness of the bid, and since the information has to be verified and confirmed, the failure to list codes is immaterial and can therefore be waived by Caltrans.

With respect to AC Dike, Mercer-Fraser properly followed the bidding instructions on bid date by identifying a subcontractor and the description of work. Mercer-Fraser listed AC Dike for performing 100% of bid items 34 (Place Hot Mix Asphalt Dike (Type C), 35 (Place Hot Mix Asphalt Dike (Type D), 36 (Place Hot Mix Asphalt Dike (Type F). The quote submitted by AC Dike was for the placement of these three types of Hot Mix Asphalt. Therefore, there is no discrepancy between the listing of the subcontractor and the work to be performed. Furthermore, the Disadvantaged Business Enterprise (DBE) Commitment form and quote list AC Dike for the identified work, and per the quote listed 770 LF which is the total quantity of work for the bid items.

Caltrans, Office of Business and Economic Opportunity, Contract Evaluation Branch has completed its evaluation and approved the DBE Commitment form submitted by Mercer Fraser.

Based on the above, Caltrans finds Stimpel-Wiebelhaus protest does not have merit and will proceed to award the contract to the lowest 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,



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

**** Transmit Conf. Report ****

P. 1
CAL/TRANS PLANS COUNTER

Oct 7 2015 11:37am

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STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

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