



August 7, 2013

To: Earl Seaberg
Contract Awards Branch Chief
Department of Transportation
Division of Engineering Services
Office Engineer MS 43
1727 30th Street
Sacramento, CA 95816

Re: Bid Protest
04-2A1104 Hwy 121
Bid Date: July 24, 2013

Dear Mr. Seaberg,

On Wednesday, July 24, 2013, Ghilotti Construction Company bid the above referenced project. At the time of the bid opening Ghilotti Construction was the apparent 4th low bidder with Gordon N Ball Inc (GNB) being the apparent low bidder. During a review of GNB's submitted bid documents subsequent to the bid opening, it was determined that GNB failed to properly submit the "Subcontractor List" form. Accordingly, Ghilotti Construction Company is hereby formally protesting GNB's bid as nonresponsive.

The Dept. of Transportation should reject GNB's bid as nonresponsive because it failed to properly submit the Subcontractor List.

On the original Subcontractor List submitted on July 24, 2013, Nitta was identified to perform bid items 50-56 (Erosion Control) as "partial". However, the revised Subcontractor List, faxed on July 25, 2013, denotes that Nitta would be performing 100% of bid items 50-56 (Erosion Control). The change from "partial" to 100% constitutes an improper change to the Subcontractor List form. As a result of this improper change, the Department should reject GNB's bid as nonresponsive. (See Attachment A)

Also, during a review of Proven Management Inc (PMI)'s submitted bid documents subsequent to the bid opening it was determined that PMI failed to properly submit the Subcontractor List form and the Disadvantaged Business Enterprise (DBE) Commitment form. Accordingly, Ghilotti Construction Company is hereby formally protesting PMI's bid as nonresponsive.

— Engineering Contractor —

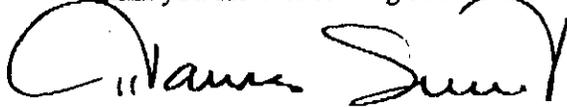
The Dept. of Transportation should reject PMI's bid as nonresponsive because of inconsistency between the Subcontractor List and the DBE Commitment form.

On the Subcontractor List form PMI identified Superior Hydroseeding as performing Bid Items 20, 21 and 50-56. However, on their DBE Commitment form PMI has deleted Bid Item 21 from Superior's scope. The deletion of Bid Item 21 changes the work to be performed by the subcontractor and constitutes a change that is not consistent with the Subcontractor List form. The DBE Commitment form states in part, "...item(s) of work listed above must be consistent... with the items of work in the "Subcontractor List" submitted with your bid". As a result of this inconsistency, the Department should reject PMI's bid as nonresponsive. (See Attachment B)

Also, PMI listed Schotka on the Subcontractor List form to perform 100% of Bid Item 2 (Construction Area Signs) the value of which is \$25,000. Yet on the DBE Commitment form PMI reduces the amount awarded to Schotka for Bid Item 2 to only \$6,590. Again, this reduction changes the work to be performed by the subcontractor and constitutes a change that is not consistent with the Subcontractor List form. As a result of this inconsistency, the Department should reject PMI's bid as nonresponsive. (See Attachment C)

Based on this information, Ghilotti Construction Company hereby protests an award of this contract to either Gordon N Ball Inc or Proven Management Inc.

Thank you for considering this matter.



Thomas Smith
Estimating Manager
Ghilotti Construction Company, Inc

Attachments

Received
07/25/2013 11:17 9258385915

Jul 25 2013 12:20pm
GORDON N. BALL, INC

PAGE 02/02

ATTACHMENT A

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
SUBCONTRACTOR LIST
DES-DE-0102.2 (REV 3/2011)

Bidder Name: Gordon N. Ball, Inc

The bidder must identify each subcontractor performing 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.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-5282 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.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of bid item Subcontracted	Column 4: Description of Subcontracted Work
Central Stripe Pacheco Cordova, CA	4, 5, 36, 37, 82, 83	100%	Striping + Markers
WC Maloney Stockton, CA	33, 35, 41, 43	100%	Demolition
Camblin Steel Rocklin, CA	62(P), 68, 69, 81(P)	53%	Rebar
Bentancourt Bros. Livermore, CA	7, 8, 84	100%	Temporary Signals + Flashing Beacons + maintain
CNJ Scottsdale, AZ	70	100%	Stain Concrete
Medina Orville, CA	79	100%	Tubular Trailing
ConFab Lathrop, CA	66	100%	Erect Precast
Nitta Loomis, CA	50, 51, 52, 53, 54, 55 56	100%	Erosion Control (<u>Partial</u>)
Medina Orville, CA	80	100%	Crash Cushion

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[Signature]
7.25.13

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!*

May 30, 2013

Facsimile: (916) 373-0183

Alan S. Berger, Vice President
 VSS International, Inc.
 P.O. Box 981330
 West Sacramento, CA 95798

02-4E9804
 02-Plu-70-37.5/46.2
 B.O. 05/15/2013

Dear Mr. Berger:

The Department of Transportation (Caltrans) received a bid submitted by VSS International, Inc. (VSS) for Contract No. 02-4E9804 on May 15, 2013. By this letter, Caltrans notifies VSS that its bid is nonresponsive because the percentage of bid items subcontracted in column 3 is not consistent with the description of subcontracted work in column 4.

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 the original submitted Subcontractor List, VSS identified Sierra Nevada Construction (SNC) as performing work described as Utilities, Grinding, Paving, Traffic Control, and Portable Changeable Message Signs (partial). However, on the 24-hour submission of the Subcontractor List submitted on May 16, 2013, VSS identified the percentage of subcontracted work as 100 percent for Bid Items 13, 15, 17, 18, 19, 20, and 21 to be performed by SNC. The change from partial to 100 percent constitutes an improper change to the Subcontractor List form.

In addition, VSS failed to provide quotes for the Disadvantaged Business Enterprise (DBE) firms identified on the DBE Commitment form.

The DBE Commitment form states, "Failure to submit the required DBE information will be grounds for finding the bid nonresponsive..., copies of the DBE quotes are required."

Based on the above, Caltrans will proceed to award the 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.

ATTACHMENT B1

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
SUBCONTRACTOR LIST
 DES-OE-0102.2 (REV 3/2011)

Bidder Name: Proven Management, Inc.

The bidder must identify each subcontractor performing work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Cost Code § 4100 et seq.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-6262 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.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
Vintage Paving Winters, CA	57 59	100% 100%	Paving
Superior Hydroseeding Watsonville, CA	20 21 50 51 52 53 54 55 56	100% 100% 100% 100% 100% 100% 100% 100%	Erosion Control.
Oliveira Fence San Jose, CA	3A 78	100% 100%	Fencing
Schotka Construction American Canyon, CA	11	100%	Temporary Crash Cushions

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STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
CALTRANS BIDDER - OBE - COMMITMENT
DES-05-0102.10C (NEW 08/2012)

ATTACHMENT B 2

This information may be submitted with your bid proposal. If it is not, you will see the topmost low bidder or the second or third low bidder, if such is submitted and received as specified in section 3 of the specifications. Failure to submit the required OBE information will be grounds for rejecting the bid notwithstanding.

CONTRACT NO: **04-2A1104**

BID AMOUNT: **\$2,121,984**

BID OPENING DATE: **July 24, 2013**

BIDDER'S NAME: **Proven Management, Inc.**

OBE BIDAL FROM CONTRACT, %: **13%**

OBE PRIME CONTRACTOR CERTIFICATION: **not applicable**

BID ITEM NO	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED	FOR CALTRANS USE ONLY	NAME OF OBE (Must be written on the bid with no omissions - include Caltrans verification #, OBE address and phone number (include 2nd and last for subcontractors))	DOLLAR AMOUNT OBE
20, 50, 51, 52, 53, 54, 55, 58	Erosion Control		Superior Hydroseeding 250 W. Riverside Drive Watsonville, CA 95076 831-783-1811 DBE/UDBE #07183	\$37,000
57, 59	Paving		Vintage Paving Co., Inc. P.O. Box 481 Winters, CA 95694 530-785-0132 DBE #27011	\$95,100

IMPORTANT: Itemize all OBE items being offered for work, regardless of the amount of the Bid. The Bid Administrator and their respective Agents of each bid item shall be notified, where applicable, with the address and phone number of each in the "Subcontractor List" submitted with your bid. Copies of the OBE system are required.

- OBE prime contractors must enter their certification number and indicate all work to be performed by OBE including work performed by its own forces.
- If 100% of item is not to be performed or furnished by OBE, describe the portion of item to be performed or furnished.
- See sections 2-1, 12 of the specifications to determine the small amount for OBE items.

Submit to:

MRC 48
OFFICE ENGINEER
DEPARTMENT OF TRANSPORTATION
1727 20TH STREET
SACRAMENTO, CA 95814-7000

Total OBE Bid Participation **\$ 147,380.00**

7%

Signature of Bidder
07/26/2013 **415-421-9500**
Date Phone Code/ Tel. No.
William Gilmartin, Vice President
Person to Contact (Please Type or Print)

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ATTACHMENT C I

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
SUBCONTRACTOR LIST
 DES-OE-0102.2 (REV 3/2011)

Bidder Name: Proven Management, Inc.

The bidder must identify each subcontractor performing 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.). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (916) 227-8282 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.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
Alamillo Rebar Vallejo, CA	62 68 69 81	20% 100% 100% 20%	Rebar
Bentancourt Bentancourt Brothers Livermore, CA	8 84	100% 100%	Electrical
Schotka Construction American Canyon, CA	(2)	(100%)	Construction Area Signs *
Central Striping Rancho Cordova, CA	4 5 36 37 82 83	100% 100% 100% 100% 100% 100%	Striping

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BID ITEM LIST ATTACHMENT C 2

Item No.	Item Code	Item Description	Unit of Measure	Estimated Quantity	Unit Price	Item Total
1	070030	LEAD COMPLIANCE PLAN	LS	LUMP SUM	LUMP SUM	2,000
2	120090	CONSTRUCTION AREA SIGNS	LS	LUMP SUM	LUMP SUM	25,000
3	120100	TRAFFIC CONTROL SYSTEM	LS	LUMP SUM	LUMP SUM	30,000
4	120149	TEMPORARY PAVEMENT MARKING (PAINT)	SQFT	320	6	1,920
5	120159	TEMPORARY TRAFFIC STRIPE (PAINT)	LF	700	3	2,100
6	120165	CHANNELIZER (SURFACE MOUNTED)	EA	18	70	1,260
7	120200	FLASHING BEACON (PORTABLE)	EA	2	1,500	3,000
8	128601	TEMPORARY SIGNAL SYSTEM	LS	LUMP SUM	LUMP SUM	250,000
9	128852	PORTABLE CHANGEABLE MESSAGE SIGN (LS)	LS	LUMP SUM	LUMP SUM	8,000
10	129000	TEMPORARY RAILING (TYPE K)	LF	1,800	20	39,200
11	128110	TEMPORARY CRASH CUSHION	EA	5	12,000	60,000
12	130100	JDB SITE MANAGEMENT	LS	LUMP SUM	LUMP SUM	30,000
13	130300	PREPARE STORM WATER POLLUTION PREVENTION PLAN	LS	LUMP SUM	LUMP SUM	2,500
14	130310	RAIN EVENT ACTION PLAN	EA	110	500.00	55,000.00
15	130320	STORM WATER SAMPLING AND ANALYSIS DAY	EA	60	500	30,000
16	025979	WATER QUALITY SAMPLING AND ANALYSIS/DAY	EA	50	500	25,000
17	025980	WATER QUALITY MONITORING REPORT	EA	11	500	5,500
18	025981	WATER QUALITY ANUAL REPORT	EA	2	1,500	3,000
19	130330	STORM WATER ANNUAL REPORT	EA	2	2,000.00	4,000.00
20	130505	MOVE-IN/MOVE-OUT (TEMPORARY EROSION CONTROL)	EA	1	1,000	1,000

3rd Bidder
THIRD BIDDER

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
CALTRANS BIDDER - DBE - COMMITMENT
DBE-05-0182.10C (NEW 08/2012)

ATTACHMENT C3

This information may be submitted with your bid proposal. If it is not, and just use the appropriate low bidder or the closest certified low bidder, if used to estimate and transmit as specified in section 7 of the specifications. Failure to submit the required DBE information will be grounds for finding the bid non-responsive.

CONTRACT NO: **04-2A1104**

NO AWARD: **\$2,121,984.00**

BD OPENING DATE: **July 24, 2013**

BIDDER'S NAME: **Proven Management, Inc.**

DBE GOAL FROM CONTRACT, %: **13%**

DBE PRIME CONTRACTOR CERTIFICATION¹: **not applicable**

DBE ITEM NO	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED ²	FOR CALTRANS USE ONLY	NAME OF DBE <small>(Must be certified on the date bid is opened - include California certificate #, DBE address and phone number) (Include Bid and lower the subcontractor)</small>	DOLLAR AMOUNT Bid ³
2	Construction Area Signs		Scholka Construction 5555 Napa Vallejo Hwy American Canyon, CA 94508 707-265-6977 DBE/UDBE #33099	\$6,580
34 & 78	Fencing		Oliveira Fence, Inc. 283 Brokaw Road Santa Clara, CA 95050 408-727-3811 DBE/UDBE #01583	\$8,670

IMPORTANT: Identify all DBE firms being utilized for work, regardless of the amount of the Bid. The DBE subcontractors and their respective portion of work shall submit their commitment, where applicable, with the return and items of work in the "Subcontractor List" attachment per bid. Copies of the DBE quotes are required.

1. DBE prime contractor must enter their contractor number and indicate all work to be performed by DBE (not the work performed by its own forces).
2. If 100% of item is to be performed or furnished by DBE, describe exact portion of item to be performed or furnished.
3. See section 2.1.12 of the specifications to determine the credit allowed for DBE firms.

Submit to:
**ENC 43
OFFICE ENGINEER
DEPARTMENT OF TRANSPORTATION
1725 MITH BUREAU
SACRAMENTO, CA 95816-7608**

Total Certified Participants **5**

CONTINUED NEXT PAGE

07/26/2013 415-421-9500
Date (Area Code) Tel. No.
William Gilmartin, Vice President
Person to Contact (Please Type or Print)

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~~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!*

July 17, 2013

Facsimile: (626) 455-0070

Earl Weiss, Secretary/Treasurer
Condor, Inc.
3000 Durfee Avenue
El Monte, CA 91732

10-0S9504
10-Mer-99-13.1/R36.7
B.O. 06/25/2013

Dear Mr. Weiss:

The Department of Transportation (Caltrans) received a bid submitted by Condor, Inc. (Condor) for Contract No. 10-0S9504 on June 25, 2013. By this letter, Caltrans notifies Condor that its bid is nonresponsive because of an inconsistency found in both the Subcontractor List and the Disadvantaged Business Enterprise (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' submitted with your bid."

On the Subcontractor List form Condor identified KRC Safety Co., Inc. (KRC) as only performing Bid Item 2, Construction Area Signs. However, on the DBE Commitment form, Condor identified KRC as performing Bid Item 2, Construction Area Signs, and Bid Item 3, Traffic Control System. The addition of Bid Item 3 changes the description of work to be performed by the subcontractor and constitutes a change that is not consistent with the Subcontractor List form and is in violation of the subcontractor listing laws as well as the Subcontractor List and DBE Commitment form instructions.



Based on the above, Caltrans will proceed to award the 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.