



May 23, 2014

California Department of Transportation  
Division of Engineering Services  
Office Engineer MS 43  
1727 30<sup>th</sup> St.  
Sacramento, CA 95816  
Fax: 916-227-6282

**Attention:** John C. McMillan  
**Contract:** 05-1F4804  
**Re:** Bid Protest of Low Bidder  
**Bid Opening:** May 14, 2014

Dear Mr. McMillan,

American Civil Constructors West Coast, Inc. hereby protests the award of the above mentioned contract to R. Burke Corporation due to grave errors in their bid documents.

After reviewing the low bidder's posted bid documents, it is apparent that the Subcontractor List and DBE Commitment Form are inconsistent with one another and fraught with errors. Most notably, the percentages listed in their Subcontractor List contain approximations (+/-) for two bid items. Furthermore, when comparing the Subcontractor List and percentages to the DBE Commitment Form, major inconsistencies are observed.

Mainly of note:

- The low bidder listed KRC Safety on their Subcontractor List for +/- 46% of Bid Item #3. When compared to the DBE Commitment Form, KRC Safety is listed for only \$14,265 of Bid Item #3, which is 30.35%. This is a serious inconsistency with the listed subcontractor percentages.
- The low bidder also listed KRC Safety on their Subcontractor List for +/- 50% of Bid Item #4. The low bidder then listed KRC Safety on their DBE Commitment Form for \$1,400, which is only 28% of Bid Item #4. Again, this is inconsistent with their listed subcontractor percentages.

In the bid documents, Revised Standard Specifications Section 2-1.10 states in part, "... *The Subcontractor List must show 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*".



Approximations (+/-) of a subcontractor's participation cannot and should not be allowed. Allowing a bidder to place '+/-' in the percentage column of the Subcontractor List would clearly violate the terms and intent of the Subletting and Subcontracting Fair Practices Act. It would allow a bidder the opportunity to change quantities and scopes of work performed by the subcontractor in a way that both confers advantage to the bidder and allows for bid shopping and bid peddling arrangements to be used post bid.

Caltrans must adhere to the requirements of the Subletting and Subcontracting Fair Practices Act. R. Burke Corporation's bid is clearly non-responsive and ineligible for award.

Please contact me with any questions.

Signed,

A handwritten signature in black ink, appearing to read "Andrew Keough", is written over a faint, larger version of the signature.

Andrew Keough  
Estimator  
American Civil Constructors  
707-742-6422

STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION  
BID BOOK

Contract No.: 05-1F4804

Project ID: 0514000001

Bidder: VC0000021634 - R. Burke Corporation

Item No.	Item Code	Item Description	Unit Of Meas	Quant	Unit Price		Item Total	
					Dollars	Cts	Dollars	Cts
Section 1 BID ITEM LIST								
1	070030	LEAD COMPLIANCE PLAN	LUMP SUM		LUMP SUM			3,000.00
2	120090	CONSTRUCTION AREA SIGNS	LUMP SUM		LUMP SUM			5,000.00
3	120100	TRAFFIC CONTROL SYSTEM	LUMP SUM		LUMP SUM			47,000.00
4	128652	PORTABLE CHANGEABLE MESSAGE SIGN (LS)	LUMP SUM		LUMP SUM			5,000.00
5	130100	JOB SITE MANAGEMENT	LUMP SUM		LUMP SUM			25,000.00
6	130200	PREPARE WATER POLLUTION CONTROL PROGRAM	LUMP SUM		LUMP SUM			3,000.00
7	130620	TEMPORARY DRAINAGE INLET PROTECTION	EA	2.0		850.00		1,700.00
8	150714	REMOVE THERMOPLASTIC TRAFFIC STRIPE	LF	2,380.0		1.50		3,570.00
9	150722	REMOVE PAVEMENT MARKER	EA	250.0		1.50		375.00
10	027285	HIGH FRICTION SURFACE TREATMENT (POLYMER RESIN) (SQYD)	SQYD	5,060.0		33.00		166,980.00

STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION  
BID BOOK

Contract No.: 05-1F4804

Project ID: 0514000001

Bidder: VC0000021634 - R. Burke Corporation

SUBCONTRACTOR LIST

The bidder must identify each subcontractors 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 business name, location, and description of subcontracted work and submit with the bid. Complete bid item numbers and percentage of bid item subcontracted and submit with the bid, or fax to (916)227-6282 within 24 hours after the bid opening. Failure to provide complete information in all areas within the time specified will result in a nonresponsive bid.

List this sub? Yes

1) Business Name: SUPER SEAL & STRIPE

City: FILLMORE State: CA

Description of Subcontracted Work:

STRIPING, MARKING, REMOVALS & LEAD COMPLIANCE PLAN WITH TRAFFIC CONTROL

Bid Item Numbers:

1, 8, 9, 11, 12, 13, 14

Percentages of Bid items Subcontracted:

100

Bid Item Numbers:

3

Percentages of Bid items Subcontracted:

9

Bid Item Numbers:

Percentages of Bid items Subcontracted:

Bid Item Numbers:

Percentages of Bid items Subcontracted:

Bid Item Numbers:

Percentages of Bid items Subcontracted:

List this sub? Yes

2) Business Name: KRC SAFETY CO., INC.

City: VISALIA State: CA

Description of Subcontracted Work:

CONSTRUCTION AREA SIGNS & TRAFFIC CONTROL (PORTION)

Bid Item Numbers:

2

Percentages of Bid items Subcontracted:

100

Bid Item Numbers:

3

Percentages of Bid items Subcontracted:

+/-46

Bid Item Numbers:

4

Percentages of Bid items Subcontracted:

Approximation

Received

May 23 2014 01:44pm

From:AMERICAN CIVIL CONSTRUCTORS

707 747 0593

05/23/2014 13:41

#463 P.006/007

+/-50

Bid Item Numbers:

Percentages of Bid items Subcontracted:

Bid Item Numbers:

Percentages of Bid items Subcontracted:

Approximation

STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION  
BID BOOK

Contract No.: 05-1F4804 Project ID: 0514000001  
Bidder: VC0000021634 - R. Burke Corporation

CALTRANS BIDDER - DBE - COMMITMENT (continued)

Bid Item No. 8, 9, 11, 12, 13, 14

Item of work and description of services to be subcontracted or materials to be provided. REMOVE STRIPE & MARKERS, FURNISH & INSTALL NEW STRIPE & MARKERS

Name of DBE (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors) SUPER SEAL & STRIPE  
PO BOX 755, FILLMORE, CA 93016  
(805) 524-7345 DBE # 2003

Dollar amount DBE \$5,276.00

Bid Item No. 2

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

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) KRC SAFETY Co., Inc  
PO BOX 6356, VISALIA, CA 93290  
(559) 732-0393 DBE # 447

Dollar amount DBE \$2,500-

Bid Item No. 3

Item of work and description of services to be subcontracted or materials to be provided. IMPACT ATTENUATOR VEHICLE RENTAL, FLASHING ARROW SIGN RENTAL, LANE CLOSURES (PORTABLE)

Name of DBE (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors) KRC SAFETY Co., Inc.  
NOTE: RENTALS INCLUDE DELIVERY AND PICK-UP  
PO BOX 6356, VISALIA, CA 93290  
(559) 732-0393 DBE # 447

Dollar amount DBE \$14,265-  $\rightarrow$   $\boxed{\$14,265 \div \$47,000 = 30.35\% \neq \pm 46\%}$

Bid Item No. 4

Item of work and description of services to be subcontracted or materials to be provided. PORTABLE CMS RENTAL PLUS DELIVERY AND PICK-UP

Name of DBE (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors) KRC SAFETY Co., Inc.  
PO BOX 6356, VISALIA, CA 93290  
(559) 732-0393 DBE # 447

Dollar amount DBE \$1,400-  $\rightarrow$   $\boxed{\$1,400 \div \$5,000 = 28\% \neq \pm 50\%}$



3701 Mallard Drive ♦ Benicia CA 94510  
 Phone (707) 746-8028 ♦ Fax (707) 747-0593

LETTER OF  
TRANSMITTAL

Date:	05/23/14	BID:	05-1F4804
Attention:	Office Engineer MS 43		
RE:	Bid Protest of Low Bidder		

Attn: **MSC 43**  
**OFFICE ENGINEER**  
**DEPARTMENT of TRANSPORTATION**  
**1727 30th STREET**  
 Phone: **SACRAMENTO, CA 95816**  
 Fax: **916-227-6282**  
 Email: -

WE ARE SENDING YOU:

Copies	Date	Description
1	23-May	Bid Protest of Contract 05-1F4804

THESE ARE TRANSMITTED:

As requested

For approval

For your use

REMARKS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

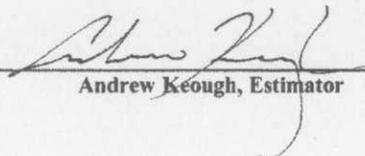
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COPY TO: File

SIGNED:   
 Andrew Keough, Estimator