



C. A. RASMUSSEN, INC.

General Engineering Contractors
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VIA FAX AND OVERNIGHT

May 20, 2013

California Department of Transportation
Attn: Office Engineer, MS 43
1727 30th Street
Sacramento, CA 95816-8041

(916) 227-6300 tel
(916) 227-6282 fax

Re: 06-0N6904; 06-Ker-99-19.5
Formal Bid Protest

Bid Date: May 3, 2013

After review of the bid package submitted by Griffith Company for the above-referenced project, please accept this letter as C.A. Rasmussen, Inc.'s formal protest on the grounds that Griffith Company failed to submit documents as required with their bid package, and also failed to meet the 5 percent DVBE requirement for this project. Additionally, their claim to have met the Non-Small Business Preference is false, as two of the businesses they listed for credit are not certified Small Businesses.

- 1) Griffith Company failed to comply with Caltrans' requirements for listing subcontractors, as outlined in the specifications. The instructions on Caltrans' Subcontractor List form state:

"The bidder must identify each subcontractor performing work in an amount in excess of ½ 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) 227-6282 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."

Griffith Company's Subcontractor List, as submitted at time of bid, did not include percentages of each bid item listed for each subcontractor. They do not appear to have submitted any supplemental information within the 24 hour deadline after bid opening.

- 2) Griffith Company failed to submit the required SSPC QP certification. Bid Item No. 47, Furnish Sign Structure (Tubular), requires structural steel painting. Section 59-5.03, Construction, of the Standard Specifications states:

"Prepare and paint tubular....sign structures under sections 59-2 and 59-3."

Section 59-2.01C(3), Painting Quality Work Plan, of the Standard Specifications states in part:

"5. Proof of required SSPC-QP certifications or qualification statements showing compliance with SSPC-QP certification."

Section 2-1.35, SSPC QP Certifications Preaward Qualification, of the Revised Standard Specification states:

"Submit proof of each required SSPC QP certification with your bid or fax it to (916) 227-6282 no later than 4:00 pm on the 2nd business day after bid opening. Failure to do so results in a nonresponsive bid."

Griffith Company failed to submit the required QP certification. Failure to submit this required certification results in a nonresponsive bid.

- 3) Griffith Company did not meet the DVBE goal set for this contract. Of the three businesses listed on their DVBE Summary sheet, Griffith Company included a company that is not a certified DVBE: Smithson Electric is a certified Small Business Enterprise, only. Further, Griffith listed D & B Equipment for purchasing message boards, under Bid Item No. 7. On the DVBE form, Griffith listed the dollar amount for this item as \$34,400. On their Proposal form, Griffith listed Item No. 7 at only \$5,600. Thus, Griffith must only receive \$5,600 credit for D & B Equipment. With these combined adjustments, Griffith Company can only be given DVBE credit for \$35,600, or 2.9 percent.
- 4) Griffith Company failed to meet the 25 percent goal needed to gain the Non-Small Business Preference incentive. Tri-Steel Corporation was listed for \$29,100; however their Small Business Enterprise certification expired in November 2012. Austin Enterprises was listed for \$650; however, they are not a certified Small Business Enterprise. With these changes, Griffith Company's adjusted Non-Small Business participation comes to \$275,824.51, or 22.6%. Therefore, they must not be granted the Non-Small Business Preference incentive for this project.

Caltrans acceptance of Griffith's incomplete Subcontractor List would violate the Subletting and Subcontracting Fair Practices Act of the Public Contract Code. The Subcontractor List submitted by Griffith with its bid on May 3, 2013 must be used. This Subcontractor List is incomplete as it does not include information in column 3, or percentages of each item bid. Per the list form, failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid. Griffith's bid should be deemed nonresponsive.

Caltrans has consistently enforced its subcontractor listing requirements by failing to accept revised "Subcontractor Lists" and has routinely found bidders nonresponsive due to altering or revising their subcontractor list form. Similarly, Caltrans has routinely enforced the requirement to submit the SSPC QP certification by finding bidders nonresponsive for failing to do so.

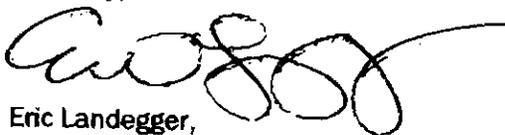
On Contract No. 11-2M4104, Caltrans found VSS International Inc. nonresponsive for submitting an incomplete subcontractor list form. Caltrans notified the bidder that Column 3, the percentage of bid item subcontracted, was left blank, thus the bid was nonresponsive.

On Contract No. 02-2E3504, Caltrans notified R. Brown Construction Company that they had failed to submit their SSPC QC certification by 4:00 pm on the second business day after bid opening, and on that basis, found the bidder nonresponsive.

In conclusion, Griffith Company's bid day submittal is incomplete, and Griffith failed to meet the required DVBE goal assigned to this contract. Therefore, Griffith Company's bid should be deemed nonresponsive and should be rejected in accordance with applicable law and Caltrans' consistent practice. For that reason, Caltrans should award the contract to C. A. Rasmussen, Inc. as the low and most responsive bidder.

Thank you in advance for your consideration and timely response on this matter.

Sincerely,



Eric Landegger,
Chief Estimator
C. A. Rasmussen, Inc.

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