

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER, MS 43
1727 30th STREET
P. O. BOX 168041
SACRAMENTO, CA 95816-8041
PHONE (916) 227-6299
FAX (916) 227-6282
www.dot.ca.gov/hq/esc/oe



*Flex your power!
Be energy efficient!*

November 19, 2013

Facsimile: (559) 322-2071

Karry Wendel, Owner
Clean Cut Landscape
8406 N. Armstrong
Clovis, CA 93619

06-0Q5504
06-Fre-168, 180-VAR
B.O. 10/15/2013

Dear Mr. Wendel:

The Department of Transportation (Caltrans) received the attached letter dated November 5, 2013, from Clean Cut Landscape (Clean Cut) protesting the Disadvantaged Business Enterprise (DBE) Commitment Form and Subcontractor List submitted by Taber Construction, Inc. (Taber). The protest alleges that Taber's Subcontractor List established 100% of items 35 and 36 for AC Electric (ACE) while the DBE Commitment Form indicated Catco as receiving a portion of that same dollar amount for materials. Clean Cut requests that Caltrans find the bid submitted by Taber nonresponsive.

Caltrans received a response letter dated November 12, 2013, from McInerney & Dillon on behalf of Taber. The response addresses Clean Cut's concerns and clearly identifies Catco as a third tier to ACE and is listed to provide electrical supplies in the amount of \$382,000. In addition, Taber intends to purchase an additional \$200,000 in electrical equipment/supplies for work to be self performed.

After a review of the Subcontractor List and DBE Commitment Form submitted by Taber, Caltrans finds that the protest submitted by Clean Cut lacks merit and will proceed to award the contract to the lowest responsible bidder.

If you have any questions please contact Mulissa Smith, Contract Awards Branch Manager, at (916) 227-6228.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. McMILLAN", written over a horizontal line.

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

Attachment



Clean Cut

— LANDSCAPE —

Department of Transportation
1727 30th Street
Sacramento, CA 95816-8041
(916) 227-6299
FAX (916)-227-6282
RE: Cal Trans Project #06-0Q5504

November 5, 2013

Dear Mr. McMillan,

In regards to the bid noted above Clean Cut is protesting award of the project to the apparent low bidder based on several inaccuracies and conflicts between the Sub-Contractor List and the DBE Submittal. These issues render the bid by Taber Construction Non-Responsive according to the 2010 Standard Specifications.

They are as follows:

1. No invoice is included itemizing "electrical materials" provided for a breakdown or verification by "Catco" with the DBE submittal. There is no physical sales quote or invoice. Simply an unqualified, unsubstantiated dollar amount. A letter of commitment is not sufficient according to the DBE Commitment form.
2. The sub-contractor list establishes 100% of items 35 and 36 as going to A-C Electric, however the DBE submittal notes Catco as getting a portion of that same dollar amount for materials. This is not mathematically possible and does not establish the percentage amount of work done on the Sub-Contractor Form correctly for A-C Electric.
3. The Sub-Contractor list establishes that 100% of Item #3 goes to KRC Safety, which is \$50,000, however, the DBE Submittal and included physical quote notes KRC as getting \$36,000 with no further itemization. There is no consistency between the sub-contractor form and the DBE Commitment form.
4. The letter of transmittal for Catco is dated 10-17-2013. This is after the bid date.

Cal Trans 2010 Standard Specifications, Section 2-1.33C states in part,

"...The Sub-contractor List must show the name, address, and work portions to be performed by each sub-contractor listed. Show work portions by bid item number, description, and percentage of each bid item sub-contracted."

In addition, Clean Cut is protesting award of the project to Wabo Landscape the 2nd apparent low bidder for conflicts and inconsistencies in the Sub-Contractor list and the DBE Submittal page.

They are numerous and are as follows:

1. Only 3% DBE was attained.
2. Arguello Concrete (A DBE) was listed on the Sub-Contractor list as receiving 85% of Item #29 which has an amount of \$105,000 for a total of \$89,250. However, the DBE Submittal and the accompanying physical quote show the dollar amount at \$75,450.00.

3. AC Electric is listed on the Sub-Contractor list for 100% of items 34, 35 and 36. The Bid Forms shows the amounts as:
 - Item 34- \$10,000.00
 - Item 35- \$1,200,00.00
 - Item 36- \$1,267,000.00
 - For a total of \$2,477,000.00
 However, the DBE Submittal and accompanying physical quote to Wabo shows an amount of \$2,093,000.00. Again, this is not mathematically possible and renders both forms incorrect and non-responsive, unless of course, Wabo is going to give the full \$2,477,000.00 to AC Electric.

4. All Commercial Fence is listed on the Sub-Contractor List for 100% of items 15, 32 and 33. The bid form shows the amounts as:
 - Item 15- \$2,000.00
 - Item 32- \$549,600.00
 - Item 33- \$124,800.00
 - For a total of \$676,400.00
 However, the DBE Submittal and accompanying physical quote show a total of \$602,453.00. This renders the Sub-Contractor list and the DBE Submittal form both incorrect and the bid non-responsive.

5. KRC Safety was listed on the Sub-Contractor list for 100% of item #3 which is \$35,000 on the bid form. However, the DBE Submittal lists KRC with a total of \$39,180.00. Again, this renders both the sub-contractor list and the DBE Submittal form as inaccurate and therefore non-responsive.

6. KRC Safety is listed on the Sub-Contractor list for 75% of item 4, which is \$60,000 on the bid form for a total allocated amount of \$45,000. However, the DBE forms list KRC for an amount of \$45,850.00.

7. In addition, the physical KRC Safety quote included with the DBE Submittal has a total of \$45,850.00 vaguely referenced, but includes BOTH items 3 and 4, while Wabo counts the items twice on the Sub-contractor List. Again, this renders both forms inaccurate and therefore non-responsive.

As stated previously,

Cal Trans 2010 Standard Specifications, Section 2-1.33C states in part,

"... The Sub-contractor List must show the name, address, and work portions to be performed by each sub-contractor listed. Show work portions by bid item number, description, and percentage of each bid item sub-contracted."

And again, *"There must be continuity between the DBE Commitment Form and the Sub-Contractor List."* Percentages of work by all of the Sub-Contractor's is not discernible,

Respectfully,



Karry Wendel
 Clean Cut Landscape #722882
 8406 N. Armstrong
 Clovis, CA. 93619
 559-322-2041
 FAX 559-322-2071
 CELL 559-269-6593

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

P. 1
CALTRANS CONTR AWARDS Fax 916-227-6282

Nov 19 2013 04:15pm

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
915593222071	Normal	19:04:14pm	1'09"	3	OK	

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION 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) 227-6299
FAX (916) 227-6282
www.dot.ca.gov/hq/esc/oe



*Flex your power!
Be energy efficient!*

November 19, 2013

Facsimile: (559) 322-2071

Karry Wendel, Owner
Clean Cut Landscape
8406 N. Armstrong
Clovis, CA 93619

06-0Q5504
06-Fre-168, 180-VAR
B.O. 10/15/2013

Dear Mr. Wendel:

The Department of Transportation (Caltrans) received the attached letter dated November 5, 2013, from Clean Cut Landscape (Clean Cut) protesting the Disadvantaged Business Enterprise (DBE) Commitment Form and Subcontractor List submitted by Taber Construction, Inc. (Taber). The protest alleges that Taber's Subcontractor List established 100% of items 35 and 36 for AC Electric (ACE) while the DBE Commitment Form indicated Catco as receiving a portion of that same dollar amount for materials. Clean Cut requests that Caltrans find the bid submitted by Taber nonresponsive.

Caltrans received a response letter dated November 12, 2013, from McNerney & Dillon on behalf of Taber. The response addresses Clean Cut's concerns and clearly identifies Catco as a third tier to ACE and is listed to provide electrical supplies in the amount of \$382,000. In addition, Taber intends to purchase an additional \$200,000 in electrical equipment/supplies for work to be self performed.

After a review of the Subcontractor List and DBE Commitment Form submitted by Taber, Caltrans finds that the protest submitted by Clean Cut lacks merit and will proceed to award the contract to the lowest responsible bidder.

If you have any questions please contact Mulissa Smith, Contract Awards Branch Manager, at (916) 227-6228.

Sincerely,


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

Attachment