



November 21, 2014

Mulissa Smith
Department of Transportation
Contract Awards
PO Box 168041, MS-43
Sacramento, CA 95816

RE: Contract No. 06-432604
Response to Nonresponsive Bid Finding

Dear Ms. Smith,

We are in receipt of your November 20, 2014 letter, stating that our bid is nonresponsive. We correctly listed Safeguard Fence (a DBE) as a subcontractor for the items associated with Fence and Guard Railing (*see Attachment "A"*). We also listed Safeguard Fence in our DBE Commitment for those items (*see Attachment "B"*). In our DBE Commitment form, we inadvertently listed Safeguard Fence for Item 26; Remove Sheet Pile Wall, an item that they did not even quote and Souza was self performing, as shown in their quote which was attached to the commitment as required "written confirmation." Instead of skipping Item 26, as was done in the Subcontractor Listing, I listed Items "23-27". Souza does not intend to subcontract Item 26 to Safeguard Fence or any other subcontractor, as represented on our Subcontractor Listing.

During our conversation this afternoon, you questioned the hand written "65,000" number listed above Safeguard's Total Bid price. That number was simply a bid comparison to ACE Fence Company's, an earlier bid that was no longer low. Our DBE Commitment accurately reflects the Total Bid of Safeguard Fence at \$53,846.10 (*see Attachment "C"*).

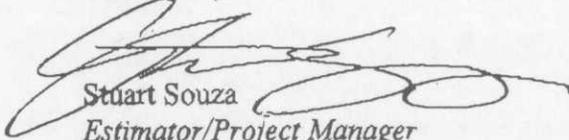
The inadvertent listing of Item 26 on the DBE Commitment form is a minor irregularity and is not grounds for bid rejection. It is fully within the power of Caltrans to waive any "irregularity" in our bid, so long as it does not give Souza any competitive advantage. A competitive advantage means we could withdraw our bid without forfeiting our bond pursuant to Public Contract Code § 5103. The inadvertent listing of Safeguard Fence on the DBE Commitment form, where the quote provided by Safeguard demonstrated the actual scope of work they are to perform and the Subcontractor List accurately reflected the work of Safeguard, does not constitute the type of mistake for which relief could be obtained by Souza under § 5103 as it did not make the bid

Souza Construction, Inc.
General Engineering Contracting
P.O. Box 3810
San Luis Obispo, CA 93403
805/546-8288
Fax 805/546-8287

“materially different than [we] intended it to be.” § 5103(c). As such, Caltrans should treat this inadvertence for what it is; an immaterial irregularity in the bid document that should be waived. This principle was reaffirmed by the courts just this year in *Bay Cities Paving & Grading, Inc. v. City of San Leandro*, (2014) 223 Cal.App.4th 1181. See also, *Menefee vs. County of Fresno*, (1985) 163 Cal.App.3rd 1175; *Ghilotti Construction vs. City of Richmond*, (1996) 45 Cal.App.4th 897.

Please reconsider your finding that Souza’s bid is nonresponsive.

Thank you,



Stuart Souza
Estimator/Project Manager
Souza Construction, Inc.

Attachment "A"

Subcontractor List

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 06-432604 Project ID: 0600020388

Bidder Name: Souza Construction, Inc.

Bidder ID: VC0000015921

List this sub? Yes

4) Business Name Safeguard Fence

Location City Corona State CA

California Contractor License Number (a) 849895

Description of Portion of Work

Fence and Guard Rail

Bid Item Numbers 23, 24, 25, 27, 65, 68, 70, 71

Percentage of Bid Item Subcontracted 100%

Bid Item Numbers 77

Percentage of Bid Item Subcontracted 2.7%

Bid Item Numbers

Percentage of Bid Item Subcontracted

Bid Item Numbers

Percentage of Bid Item Subcontracted

Bid Item Numbers

Percentage of Bid Item Subcontracted

List this sub? Yes

5) Business Name Statewide Safety & Signs

Location City Fresno State CA

California Contractor License Number (a) 975518

Description of Portion of Work

Signs and Markers

Bid Item Numbers 2, 6, 11, 66, 67

Percentage of Bid Item Subcontracted 100%

Bid Item Numbers

Percentage of Bid Item Subcontracted

Attachment "B" DBE Commitment

Bid Item No.

23-27, 65, 68, 70, 71, 77 (Portion)

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

IWW, Remove Fence & GR, Install Fence & GR

FOR CALTRANS USE ONLY

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)

Safeguard Fence, DBE Cert # 36311

2745 N Locust Ave, Rialto, CA 92376

(949)678-7331

Dollar amount DBE 53,846.10

Bid Item No.

49, 50

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

Furnish and Drive CISS Piling

FOR CALTRANS USE ONLY

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)

Tipco Engineering, DBE Cert # 37925

425 E Redondo Beach Blvd, Gardena, CA 90248

(310)515-6579

Dollar amount DBE 503,525.00

Bid Item No.

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

FOR CALTRANS USE ONLY

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)

Dollar amount DBE



Listed @ 1:30

ABID ✓

648 GREENGATE ST. CORONA, CA. 92879 SAFEGUARD FENCE (951)-741-0854 office (951)-281-5144 fax

C-18 LICENSE # 849895

BID DATE: 6-Nov-14

RFP/CONTRACT# 06-462604

LOCATION: Rte. 39, Fresno county, Coalinga

ADDENDUMS: #1

ITEM #	DESCRIPTION	Qty	UM	Unit Price	Extension
23	Treated Wood Waste	6860	LF	\$ 0.44	\$ 3,018.40
24	Remove Fence (Type BW)	870	LF	\$ 4.41	\$ 3,836.70
25	Remove Fence (Type WM)	320	LF	\$ 5.20	\$ 1,664.00
27	Remove Guardrail	720	LF	\$ 5.50	\$ 3,960.00
65	Fence (BW, Metal Post)	810	LF	\$ 8.20	\$ 6,642.00
88	Midwest Guardrail	140	LF	\$ 34.75	\$ 4,865.00
70	Transition Railing (Type WB-31)	4	EA	\$ 3,900.00	\$ 15,600.00
71	Alternative Flared Terminal system	4	EA	\$ 2,940.00	\$ 11,760.00
77	Mobilization	1	LS	\$ 2,500.00	\$ 2,500.00

65,000

TOTAL BID \$ 53,846.10

NOTE 1: If Bonds will be required; Safeguard will need help in obtaining them.

EXCLUSIONS
SURVEY, STAKING, GRADING, CLEARING, GRUBBING, BOUNDING, POT HOLING, CONCRETE WORK, BONDS,
BOND and PERMIT FEES, LIABILITY FOR UTILITIES NOT MARKED BY DIG ALERT, ENGINEERING, PAINTING
ANCHOR BLOCK FOR WB TRANSITIONS AND CRASH CUSHIONS/ATTENUATORS, CONCRETE FLAT WORK
WAIVER OF SUBRIGATION

WE ARE A CERTIFIED DBE, WBE

Prepared by:

Mike Williams

Mike Williams, Partner, Safeguard Fence

951-741-0854 cell

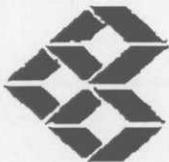
951-281-5144 fax

mike.safeguardfence@outlook.com

Collected

Attachment "C"

Flagged @ 12:30



ACE FENCE COMPANY

727 NORTH GLENDORA AVENUE, LA PUENTE, CA 91744

PHONE (626) 333-0727 * FAX (626) 333-7843

CERTIFIED AS DBE/UBBE/SBE/MBE/WBE FIRM, UNION COMPANY, LACMTA Pre-Qualified to Bid
 "Awarded Minority Contractor of the Year by the City of Los Angeles for Excellence In Quality and Services"

"We Are An Equal Opportunity Employer"

FAX QUOTE

TO : General Contractors
 FAX # :
 FROM : Michael Abanilla
 PROJECT : CADDOT Replace Bridge, Reconstruct Roadway and Install RSP (Contract No. 06-432804)
 From 0.1 Mile West to 0.1 Mile East of Jacalitos Creek Bridge, Near Coalinga, In Fresno Co., CA
 BID DATE : 11/08/14 2:00 P.M.
 SPECS : per 2010 CALTRANS Plans & Specs
 ATTN : Estimator
 DATE : 11/05/14
 PAGES : 1
 ADDENDUM: 1

ITEM	DESCRIPTION	Unit	Qty	Unit Price	Amount
Proposal as follows:					
23	TREATED WOOD WASTE	LB	6,880	\$ 0.35	\$ 2,400.00
24	REMOVE FENCE (TYPE BW)	LF	870	\$ 8.00	\$ 6,960.00
25	REMOVE FENCE (TYPE WM)	LF	320	\$ 10.50	\$ 3,360.00
27	REMOVE GUARDRAIL	LF	710	\$ 12.00	\$ 8,520.00
65	FENCE (TYPE BW, METAL POST)	LF	810	\$ 12.00	\$ 9,720.00
68	MIDWEST GUARDRAIL SYSTEM (STEEL POST)	LF	140	\$ 42.00	\$ 5,880.00
70	TRANSITION RAILING (TYPE WB-31)	EA	4	\$ 4,450.00	\$ 17,800.00
71	ALTERNATIVE FLARED TERMINAL SYSTEM	EA	4	\$ 2,600.00	\$ 10,400.00
TOTAL BID AMOUNT:					\$ 65,040.00

- * ITEM # 70 - CONCRETE BARRIER, CORE DRILLING & PIPE SLEEVES IS NOT INCLUDED, BY OTHERS.
- * THIS PROPOSAL IS BASED ON PAID PREVAILING WAGES AND CERTIFIED PAYROLL
- * PLEASE REFER TO NOTES & EXCLUSIONS BELOW. IF YOU HAVE QUESTIONS PLEASE CALL.

NOTE: PROPOSAL IS AS A PACKAGE UNLESS DISCUSSED PRIOR TO BID. OUR PROPOSAL IS PER LINE ITEM & NOT LUMP SUM UNLESS IT STATES OTHERWISE. AWARD MUST HAPPEN WITHIN 60 DAYS. COPY OF ACE FENCE COMPANY'S BID TO BE PART OF THE FINAL CONTRACT AGREEMENT. COPY OF GENERAL'S PAYMENT & PERFORMANCE BONDS TO BE ATTACHED TO THE CONTRACT AGREEMENT.

EXCLUDE: DELINEATORS; STAINING & PAINTING; CONCRETE CURB, BARRIER, SLAB, MINOR CONCRETE OR ANY CONCRETE WORKS; VEGETATION CONTROL; DEMOLITION; CLEARING & GRUBBING; REMOVAL OF EXISTING VEGETATION OR ANY OBSTRUCTIONS; EXTRA DIRT FOR BACKFILLING; GRADING; STAKING & LAY-OUT; ROCK DRILLING, CONCRETE CUTTING, BREAKING & CORE DRILLING; PAVEMENT REPAIR OR ASPHALT PATCHING; POTHOLING OR LOCATING UTILITIES; MAINTENANCE OR REPAIR TO DAMAGES CAUSED BY OTHERS & TO UNMARKED UTILITY LINES; GROUNDING & ELECTRICAL WORKS; ENGINEERING OR STRUCTURAL CALCULATIONS; SURVEYS FOR ALIGNMENT & ELEVATIONS; COSTS FOR INSPECTIONS & TESTING; BOND COST; SWPPP; BEST MANAGEMENT PRACTICES; ASBESTOS & LEAD COMPLIANCE PLAN & ANY RELATED WORKS; PERMITS/FEES; DUST CONTROL; K-RAILS; TEMPORARY FENCING & SAFETY RAILING; TRAFFIC CONTROL, LIGHTING & SIGNS; FLAGMEN; LANE CLOSURE; HAULING OF SPOILS (spoils from our excavation are to be scattered in the immediate vicinity of our work, relocation of spoils will be considered a change order)

INSURANCE: GENERAL LIABILITY - \$ 1,000,000 - \$ 2,000,000 AGGREGATE; AUTOMOBILE - \$ 1,000,000; WORKMAN COMPENSATION - \$ 1,000,000. OCIP / CCIP PROJECTS - WC'S PREMIUMS ALREADY DEDUCTED. ADDITIONAL INSURANCE REQUIREMENTS ARE SUBJECT TO EXTRA PREMIUMS.

LICENSE # A, B & C-13 # 986577, EXP. 9-30-2018 - UNION
 SUBJECT TO ACCEPTANCE WITHIN 30 DAYS