DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER
1727 30th STREET, MS-43
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!

September 4, 2013

Facsimile: (661) 367-9097

Eric Landegger, Chief Estimator
C.A. Rasmussen
28548 Livingston Avenue
Valencia, CA 91355-4171

07-3X4104
07-LA-2-32.5
B.O. 08/01/2013

Dear Mr. Landegger:

The Department of Transportation (Caltrans) received the attached letter dated August 23, 2013, from C.A. Rasmussen, Inc. (C.A. Rasmussen) protesting the bid submitted by Baltazar Construction, Inc. (Baltazar). The protest alleges that Baltazar's bid contains numerous errors relating to the Subcontractor List and Disadvantaged Business Enterprise (DBE) participation.

After a review of the bid documentation and protest, Caltrans determined that the bid submitted by Baltazar was nonresponsive. Therefore, Caltrans finds that C.A. Rasmussen's protest has merit and will proceed to award the contract to the lowest responsible and responsive bidder provided that all requirements are met.

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

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Since 1964

C. A. RASMUSSEN, INC.

General Engineering Contractors
License No. 254681 A

Valencia Commerce Center
28548 Livingston Avenue
Valencia, CA 91355-4171
Telephone 661.367.9040
Fax 661.367.9097
www.carasmussen.com

VIA FAX AND OVERNIGHT

August 23, 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: 07-3X4104; 07-LA-2-R32.5/R32.5
Formal Bid Protest

Bid Date: August 1, 2013

After review of the bid package submitted by Baltazar Construction, Inc. for the above-referenced project, please accept this letter as C.A. Rasmussen, Inc.'s formal protest on the following grounds:

1) Baltazar Construction submitted an incomplete and incorrect Subcontractor List.

   a) 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 results in a nonresponsive bid."

   b) Column 3 directs bidders to list the percentage of the bid item subcontracted. Baltazar Construction wrote in Column 3 the subcontracted percentage of the total bid amount, rather than the individual bid items listed.

   c) In Column 1, Baltazar listed the subcontractor Abrasive Blasting Service to perform (written in Column 2) Item Nos. 24 (Remove Yellow Thermoplastic Traffic Stripe), 25 (Remove Thermoplastic Traffic Stripe), 26 (Remove Thermoplastic Pavement Marking), and 29. Bid Item No. 29 is Structure Excavation (Soldier Pile Wall). However, in Column 4, for the corresponding Description of Subcontracted Wor, Baltazar wrote "Mobilization," which is Item No. 39.

Caltrans' acceptance of the incomplete and incorrect Subcontractor List submitted by Baltazar would violate the Subletting and Subcontracting Fair Practices Act of the Public Contract Code. The Subcontractor List submitted by Baltazar with its bid is

incomplete as it does not include information in Column 3. Per the list form, failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid. Baltazar's bid should be deemed nonresponsive.

2) On page 2 of its proposal, Baltazar Construction acknowledged addenda for this contract. No addenda were issued.

3) The Disclosure of Lobbying Activities Form, page 14, of the proposal submitted by Baltazar is blank and unsigned.

4) On page 15, Baltazar Construction indicates that they are not in compliance with federal Equal Employment Opportunity regulations.

5) On page 16 of the proposal, Baltazar Construction incorrectly completed its Noncollusion Affidavit.

6) Baltazar Construction claimed a DBE participation of 10.64 percent. This amount is exaggerated and incorrect. The actual DBE commitment for Baltazar Construction is 1.26 percent. Further, Baltazar failed to make a good faith effort to meet the goal on this contract.

   a. The claimed amount of $87,500 for E-nor Innovations to perform as a second-tier subcontractor for Item No. 4, Traffic Control System, is impossible. Baltazar Construction priced Item No. 4 for a total of $70,000 on its proposal form. They may not change the value of this item on the DBE Commitment form in order to receive more credit. At best, Baltazar can claim 7.7 percent of Item No. 4, as listed on the Subcontractor List submitted with its bid, giving E-nor Innovations a total of $5,390.

   b. Baltazar Construction claimed $11,000 of DBE credit for The Firm as a second-tier subcontractor. The revised total, based on 0.96% of the amounts for Item Nos. 12, 13, and 15, as submitted with their proposal, should be $168.

   c. Baltazar Construction claimed $5,750 of DBE credit for Abrasive Blasting Service as a second-tier subcontractor. The revised total, based on 0.50% of the amounts for Item Nos. 24, 25, 26, and 39, as submitted with their proposal, should be $64.37.

   d. Factoring in all of these corrections, the actual DBE Commitment for Baltazar Construction is a total of $14,306.77, or 1.26% of its total bid amount.

   e. For Section 2 of its Good Faith Efforts documentation, Baltazar Construction claims to have solicited only eight subcontractors to meet the 9 percent DBE goal associated with this project. In comparison, C. A. Rasmussen solicited 106 subcontractors. Further, Baltazar failed to provide copies of the solicitations and/or fax confirmations for each of the eight subcontractors they indicate they had contacted, as required by the instructions for this section.

   f. For Section 1 of its Good Faith Efforts documentation, Baltazar Construction claims to have made 18 items of work available for DBE participation. However, three of the items listed in this section (Concrete Backfill, Temporary Fiber Wall

and Temporary Silt Fence) do not appear in the advertisement Baltazar placed on the Caltrans website for this contract.

g. Section 3 of its Good Faith Efforts documentation directs bidders to list the selected firm for each item of work made available. Baltazar Construction provided information for only four of the 15 items of work it made available.

In conclusion, Baltazar Construction submitted an incorrect and incomplete Subcontractor List; it submitted an incomplete bid package by leaving blank and incorrect forms in its proposal; it demonstrated being in non-compliance with federal EEO regulations; it acknowledged non-existent addenda associated with this contract; and finally, failed to meet the DBE goal and failed to make a good faith effort to meet the goal on the above referenced project. For these myriad of errors, Caltrans cannot possibly consider Baltazar Construction a responsive bidder for this contract.

Baltazar Construction should be deemed a nonresponsive bidder and its proposal 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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FAX COVER SHEET

TO: _____ COMPANY: Caltrans

FAX: 916.227.6282 PHONE: 916.227.6306

FROM: Eric Landegger DATE: 8/23/13

OF PAGES (INCLUDING THIS PAGE): 4

RE: 07-3X4104 Bid Protest

☐ URGENT ☑ FOR REVIEW ☐ PLEASE COMMENT ☑ PLEASE REPLY

Transmitted via FAX number (661)367-9097

If you have any trouble or do not receive all of the pages, please call (661)367-9062

COMMENTS:

** Transmit Conf.Report **

P.1 Sep 5 2013 02:42pm
CALTRANS CONTR AWARDS Fax 916-227-6282

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