

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!*

October 9, 2013

Facsimile: (858) 536-3131

Jim Coffman, Senior Vice President
Coffman Specialties, Inc.
9685 Via Excelencia, Suite 200
San Diego, CA 92126

08-0K5204
08-SBD-15-11.0
B.O. 9/5/13

Dear Mr. Coffman:

The Department of Transportation (Caltrans) received the attached letter dated October 4, 2013, from Coffman Specialties, Inc. protesting a bid submitted by Future DB International Inc. (Future) for Contract No. 08-0K5204. The protest alleges that Future's bid fails to meet the stated Disadvantaged Veterans Business Enterprise goal of 3.0% required for this project.

Caltrans did not complete an evaluation of this protest since Future did not meet the DVBE goal and is no longer eligible for award. Caltrans will proceed to award the contract to the lowest responsive bidder provided that all requirements are met.

If you have any questions please contact Renee Smith, Contract Awards Analyst, at (916) 227-6296.

Sincerely,

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

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

Attachment

**COFFMAN SPECIALTIES, INC.**

GENERAL AND ENGINEERING CONTRACTORS

October 4, 2013

California Department of Transportation
 Attn: John C. McMillan
 1727 30th Street
 Sacramento, CA 95816

*Sent via facsimile (916) 227-6282
 Sent Via FedEx*

Project: Contract No. 08-0K5204
 Subject: Nonresponsive Bid

Dear Mr. McMillan,

Coffman Specialties Inc. ("CSI") is in receipt of Future DB International Inc.'s ("Future DB") responsive letter concerning the inadequacies of its bid. Future DB by its letter acknowledged its bid does not meet the requisite requirements of the CONTRACT, including the subcontracting listing as required therein. CALTRANS has no other alternative than to determine Future DB's bid as submitted non-responsive.

Listed Subcontractor:

Future DB, on the face of the listing forms provided by CALTRANS, designated Rialto Concrete Products ("RCP") as the subcontractor performing "pre-cast" reinforced box culvert work, Item 38. By submission under the 24 hour rule, Future DB confirmed RCP was a subcontractor performing 50% of the item in the CONTRACT, bound by all requirements including prevailing wage.

CSI questioned the listing of RCP both due to the business of RCP (supplier) and they were not an approved source for pre-cast per Special Provisions Section 1.15.1 Audits of Manufacturing Facilities (reference ATTACHMENT A for your convenience).

As stated above, Future DB listed RCP as a subcontractor. When questioned, Future DB simply states RCP will become approved prior to the work. Future DB qualified their bid by simply stating if RCP doesn't work out they will substitute Pro-Cast Products as a subcontractor or supplier. And RCP and/or Pro-Cast are now referred to as suppliers not subcontractors, even though they are a listed subcontractor. It cannot simply replace RCP as a subcontractor with a supplier and say that, although it represented in its bid that RCP would perform subcontracting work, it already plans to substitute another entity for RCP. Such twacking of the bid gives RCP an unfair advantage over other bidders by replacing a subcontract and qualifying their bid in violation of California Public Contract Code §4106, §4107, and §4109 (ATTACHMENT B) and is non-responsive. The original bid



John C. McMillan
California Department of Transportation
October 4, 2013
Page 2 of 2

form listed RCP as a subcontractor, now they intend to remove RCP from the list of subcontractors and say they are suppliers only and if they can't make the work/materials, Pro-Cast products will perform the work.

3% DVBE Requirement

The Contract specifications require that:

The stated DVBE goal for this Contract is 3 percent. (Notice to Bidders, pg. 1). 2-1.12B (which applies if a UDBE goal is shown on the *Notice to Bidders* – as in this case), provides that

Future DB International Inc. has provided a Certified DVBE Summary listing North Valley Barricade Inc. as a supplier of Bid Item #3 Traffic Control System and has claimed 100% of their suppliers quote (\$57,715.20 or 3.10% of their total bid). Future DB International Inc. should only be claiming 60% of their suppliers quote - \$34,629.10. When the correction is applied, their new total DVBE claimed participation is 1.86% of the total bid.

It is believed the requirement for DVBE participation are to be in the intent and spirit of 49 CFR 26 and CALTRANS execution of Small Business/Disadvantage Business Enterprises programs, where a material supplier that does not manufacture or alter the materials is to be granted 60% of the value.

In conclusion, Future DB's bid is qualified, violates the subcontractor listing requirements, Future DB prepared their bid using non-qualified materials, and did not obtain the required 3% participation for DVBE.

Bid is Nonresponsive

Standard Specification (as revised for this Contract) states: "On the Subcontractor List, you must either submit each subcontracted bid item number and corresponding percentage with your bid or fax these numbers and percentages to (916) 227-6282 within 24 hours after bid opening. Failure to do so results in a nonresponsive bid."

Truly Yours,


Jim Coffman
Senior Vice President

ATTACHMENT "A"

Section 1.15 FACILITY AUDITS of the Office of Structural Materials Manual (OSMM) provides:

1.15.1 Audits of Manufacturing Facilities

The intent of the audit is to ensure that the fabricator being audited complies with the requirements set forth in the Caltrans standard specifications, special provisions and the project plans. In general, the audit process evaluates if the fabricator has the processes and the resources to fabricate the structural products to the quality indicated in the contract documents.

RCP has not undergone this process, and therefore cannot be utilized to provide the materials specified in the Contract Documents.

in its responsive letter, Future DB says only that RCP will be supplying precast culvert elements and will be certified at the time of award, and if it is not, Future DB will use Pro-Cast Products, Inc. instead.

ATTACHMENT "B"

California Public Contract Code § 4106 provides:

"If a prime contractor fails to specify a subcontractor or if a prime contractor specifies more than one subcontractor for the same portion of work to be performed under the contract in excess of one-half of 1 percent of the prime contractor's total bid, the prime contractor agrees that he or she is fully qualified to perform that portion himself or herself, and that the prime contractor shall perform that portion himself or herself.

If after award of contract, the prime contractor subcontracts, except as provided for in Sections 4107 or 4109, any such portion of the work, the prime contractor shall be subject to the penalties named in Section 4111."

The subcontractor cannot be substituted out unless it meets the requirements of Code § 4109 (a public emergency situation) or § 4107 which states:

A prime contractor whose bid is accepted may not:

(a) Substitute a person as subcontractor in place of the subcontractor listed in the original bid, except that the awarding authority, or its duly authorized officer, may, except as otherwise provided in Section 4107.5, consent to the substitution of another person as a subcontractor in any of the following situations:

(1) When the subcontractor listed in the bid, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract for the scope of work specified in the subcontractor's bid

(2) When the listed subcontractor becomes insolvent or the subject

(3) When the listed subcontractor fails or refuses to perform his or her subcontract.

(4) When the listed subcontractor fails or refuses to meet the bond requirements of the prime contractor

(5) When the prime contractor demonstrates to the awarding authority, or its duly authorized officer, subject to the further provisions set forth in Section 4107.5, that the name of the subcontractor was listed as the result of an inadvertent clerical error.

(6) When the listed subcontractor is not licensed pursuant to the Contractors License Law.

(7) When the awarding authority, or its duly authorized officer, determines that the work performed by the listed subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, or that the subcontractor is substantially delaying or disrupting the progress of the work.

(8) When the listed subcontractor is ineligible to work on a public works project pursuant to Section 1777.1 or 1777.7 of the Labor Code.

(9) When the awarding authority determines that a listed subcontractor is not a responsible contractor.

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
SUBCONTRACTOR LIST
DES-OE-0102.2 (REV 3/2011)

Bidder Name: Futura DB

The bidder must identify each subcontractor 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 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.

Column 1: Business Name and Location	Column 2: Bid Item Nos.	Column 3: Percentage of Bid Item Subcontracted	Column 4: Description of Subcontracted Work
KRC Safety Co, Inc Visalia, CA	2,		Construction Area Signs
Lomprides Environmental Organization. San Diego, CA	18, 19		Contractor-supplied Bio- -Logist, Noise monitoring
Products, (S&C) Visalia, CA	38		12'x 10' H precast reinforced Concrete box
Cell - Crete Fontana - CA	25		Culvert slurry - cement Backfill
Green vista landscape Orange - CA	13, 14, 15 16,		Water pollution Control
Ace Fence Company La Puente, CA	20, 40		Remove double thrie beam barrier - Double thrie beam Barrier (steel/post)
J.P. Striping, Inc Beaumont, CA	1, 4, 5, 6, 7 21, 22, 41, 42 43		Lead compliance plan, Marking Traffic paint, channelizer, Remove painted traffic stripes/ Marker, pavement Marker.

ADA Notice For individuals with sensory disabilities this document is available in alternate formats. For information call (916) 854-6410 or TDD (916) 854-3880 or write Records and Forms Management, 1120 N Street, MS-80, Sacramento, CA 95814.



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

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

Oct 9 2013 04:12pm

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STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

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