

Attachment C

Good Faith Effort Reconsideration Committee Determination

Contract Number 300386, Federal Number HRRRL-5949(111)

Templeton Road Widening Project

Bids Opened

DECEMBER 20, 2012

COUNTY OF SAN LUIS OBISPO  
DEPARTMENT OF PUBLIC WORKS

Good Faith Effort Reconsideration Committee Determination  
Contract 300386

INTRODUCTION

A reconsideration meeting on the contract for the Templeton Road Widening Project was held on January 9, 2013 to allow the low bidder Raminha Construction Inc. (RCI) to respond to the preliminary finding by the Public Works Design Division that (RCI) did not meet the 4% DBE contract goal and did not make a good faith effort to meet the goal. In attendance were:

- RCI Contractor & Representatives
- Good Faith Effort Reconsideration Panel
- Public Works Staff, Design Division Manager
- Public Works Staff, Design Division Engineer III
- County Counsel
- Deputy Director of Public Works (Moderator)
- Caltrans Local Assistance Engineer
- Public Works Staff, Project Manager

BACKGROUND

The Reconsideration Panel consisted of Dave O'Halloran, Public Works Construction Division, Reinie Jones, Caltrans, and Russ Thompson, City of Atascadero. Bids for this contract for the Templeton Road Widening Project were opened on December 20, 2012. RCI's low bid was \$587,719.00 and the contract goal was 4% DBE. RCI claimed 0% DBE participation. Low bid #2 (Whitaker) and low bid #3 (CalPortland) each exceeded the 4% goal by having DBE participation of 5.2% and 15%, respectively.

The preliminary evaluation by the Public Works Design Division concluded that RCI did not meet the goal and did not demonstrate good faith efforts to do so. Staff's conclusions are outlined in a memorandum dated December 28, 2012 and entered into the record at the reconsideration meeting.

The Reconsideration Committee considered the information provided by RCI, including the letter from P. Terence Schubert dated January 8, 2013. All DBE and other submittal documents furnished, including the oral presentations, were reviewed in accordance with the requirements of 49 CFR Part 26 and the applicable Special Provisions of the contract.

Public Works Design Division staff presented nine categories to evaluate in determining if RCI made a good faith effort to solicit DBEs. The following document outlines each category, staff's finding, and the Reconsideration Panel's conclusions.

Good Faith Effort Reconsideration Committee Determination  
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*1. Items of Work the Bidder Made Available to DBE Firms*

Public Works Design Division concluded RCI's efforts were not sufficient to demonstrate a good faith effort.

The Reconsideration Panel concurs with this finding. Furthermore RCI could have made more work available to available DBE firms.

*2. Solicitation Effort Documentation*

Public Works Design Division concluded RCI's efforts were marginal to demonstrate a good faith effort.

The Reconsideration Panel concurs with this finding.

*3. Rejected DBE Documentation*

Public Works Design Division concluded RCI's efforts were not sufficient to demonstrate a good faith effort.

The Reconsideration Panel concurs with this finding. Furthermore, RCI did not adequately prove that the quote from Super Seal and Stripe was "excessive and unreasonable".

*4. Publication Effort Made to Advertise the Projects to Include DBE Participation*

Public Works Design Division concluded RCI's efforts were sufficient to demonstrate a good faith effort on this task.

The Reconsideration Panel concurs with this finding.

*5. Agencies, Organizations, or Groups Contacted to Provide Assistance in Contacting, Recruiting and Using DBE Firms*

Public Works Design Division concluded RCI's efforts were sufficient to demonstrate a good faith effort.

The Reconsideration Panel concurs with this finding.

*6. Efforts to Provide Information About the Plans, Specifications, and Contract Requirements*

Public Works Design Division concluded RCI's efforts were sufficient to demonstrate a good faith effort on this task.

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The Reconsideration Panel concurs with these findings.

*7. Assistance with Bonding, Lines of Credit, Insurance, Equipment, Supplies, Materials, and/or Services*

Public Works Design Division concluded RCI's efforts were marginal to demonstrate a good faith effort on this task.

The Reconsideration Panel concurs.

*8. Additional Data to Support a Demonstration of Good Faith Effort*

RCI did not provide any additional documentation to support their good faith effort.

The Reconsideration Panel concurs.

*9. Comparison of DBE Participation Achieved by Others*

Public Works Design Division concluded that taking into account the performance of the other bidders to meet the goal, RCI could have met the goal with additional reasonable efforts.

The Reconsideration Panel concurs with this finding. Furthermore, the panel concludes that RCI could have met the goal. Based on information provided in the meeting, not only did the 2<sup>nd</sup> and 3<sup>rd</sup> low bidders meet or exceed the goal, all the other bidders met the goal, with the exception of one bidder that was found nonresponsive. Appendix A to part 26 also states that, "if the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, you may view this, in conjunction with other factors, as evidence of apparent successful bidder having made good faith efforts." The other bidders met or exceeded the 4% goal and RCI obtained 0%.

FINDINGS AND CONCLUSIONS OF GOOD FAITH EFFORT RECONSIDERATION COMMITTEE

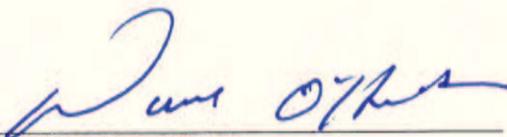
Based on the following, the Reconsideration Committee concludes that RCI did not demonstrate that it made good faith efforts to meet the 4% DBE contract goal. In reaching this conclusion, the Committee evaluated whether the bidder has shown that it took all necessary and reasonable steps to achieve the DBE goal, taking into consideration the

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selection of work items and DBE queries which would be a reasonable effort to obtain the DBE goal. In addition the fact all other bidders except the one which was non-responsive met or exceeded the goal was a consideration.

The Reconsideration Committee concluded that RCI could have made a better effort to solicit DBE subcontractors on this project, by performing multiple queries using the online database to find DBE subcontractors willing to work in district 5, make additional items or portions of items available to DBE firms, and continuing to solicit DBE's through the bidding process.

Therefore, based on the totality of the efforts undertaken by the bidder, the Committee finds that, in its judgment, weighing the quality, quantity and intensity of the efforts made by the low bidder, that RCI did not demonstrate good faith efforts to meet the 4% DBE contract goal.

  
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DAVE O'HALLORAN  
SAN LUIS OBISPO COUNTY  
DEPARTMENT OF PUBLIC WORKS

1-15-2013  
Date

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REINIE JONES  
CALTRANS

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Date

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RUSS THOMPSON  
City of Atascadero

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Date

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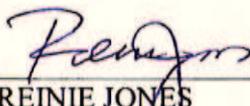
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REINIE JONES  
CALTRANS

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Date 1/15/13

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RUSS THOMPSON  
City of Atascadero

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Therefore, based on the totality of the efforts undertaken by the bidder, the Committee finds that, in its judgment, weighing the quality, quantity and intensity of the efforts made by the low bidder, that RCI did not demonstrate good faith efforts to meet the 4% DBE contract goal.

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