

Department of Public Works

Bureau of Engineering
Bureau of Contract Administration
Joint Report No. 1

June 12, 2009
CD No. 11

SANTA MONICA BAY LOW FLOW DIVERSION UPGRADE PACKAGE 1 - CONTRACT AWARD (W.O. No. EW40002F)

PROPOSITION O - CLEAN WATER BOND PROGRAM PROJECT

RECOMMENDATIONS

1. Declare Blois Construction Inc., first low bidder, to be non-responsive as discussed in this report.
2. Receive and file Transmittal Nos. 2 and 3.
3. Declare Los Angeles Engineering, Inc., second low bidder, to be the lowest responsive, responsible bidder and award them a contract for this project for \$3,024,545.
4. Authorize the President or two members of the Board to execute the contract after approval as to form by the City Attorney has been obtained.

TRANSMITTALS

1. Summary of bids received on April 9, 2009.
2. Communication No. 120680 copy of a letter dated April 10, 2009, from Mr. Ron Hallquist, Los Angeles Engineering, Inc., 633 N. Barranca Avenue, Covina, CA 9172.
3. Communication No. 120680, copy of a letter dated May 12, 2009, from Mr. Craig Blois, Blois Construction Inc., 3201 Sturgis Road, Oxnard, CA 93030.

DISCUSSION

Background

On November 2004, the voters of the City of Los Angeles approved the Proposition O, Clean Water General Obligation Bonds, to improve water quality. The measure authorized the issuance of \$500 million in general obligation bonds to finance projects that will clean up, prevent and reduce pollution, including bacteria and trash, in the City's watercourses and water bodies inclusive of the ocean and beaches. This program is in response to the regulatory requirements of the Federal Clean Water Act.

This project consists of the construction of various mechanical and electrical upgrades to five existing low flow diversion (LFD) systems in the West Los Angeles area. The current LFD systems operate during the summer dry weather months except during rain events. The upgraded systems will operate year round except for rain events. These LFD systems are pollution abatement devices that routes low flow urban runoff from canyons, streets, and small watersheds away from the storm drain system and redirects it into the sanitary sewer system preventing discharge in the Santa Monica Bay. The runoff is then treated at the Hyperion Treatment Plant, before being discharged into the ocean.

The project has been reviewed for environmental considerations. It was determined to be categorically exempt from the provisions of the California Environmental Quality Act of 1970, under Article III of the City’s Environmental Quality Act Guidelines.

The three lowest of the seven bids received (Transmittal No. 1) compared with the City Engineer’s estimate of \$3,714,900 are:

| Bid No. | Contractor’s Name | Bid Amount | (%) High/Low | (%) Pledged | | |
|---------------------|---|-------------|--------------|-------------|-----|-------|
| | | | | MBE | WBE | OBE |
| Low Bid | Blois Construction, Inc. (Blois) | \$2,993,000 | 19.43% Low | 0 | 0 | 9.69 |
| 2 nd Bid | Los Angeles Engineering Inc. (LA Engineering) | \$3,024,545 | 18.58% Low | 0 | 0 | 35.30 |
| 3 rd Bid | Griffith Company (Griffith) | \$3,216,262 | 13.42% Low | 0 | 0 | 30.89 |

In reviewing bids, staff noted that Blois, first low bidder, submitted an incomplete Bidder Certification Form (CEC Form 50) with their bid. The Assistant City Attorney, Mr. Westhoff, was consulted and advised staff that under § 48.09 (H) of the Los Angeles Municipal Code, the bid is deemed non-responsive if the bidder fails to complete and submit the CEC Form 50 with the bid. Therefore, staff recommends that Blois’s bid, as submitted, be deemed non-responsive. An evaluation of the next two low bids indicates that these bids are reasonable. Staff recommends awarding the contract to LA Engineering, second low bidder, subject to verification of all other bidding requirements.

Minority Business Enterprise/Women Business Enterprise/Other Business Enterprise (MBE/WBE/OBE) Subcontractor Outreach Program

This project mandated bidders to perform their Good Faith Effort (GFE) via the internet on the Business Assistance Virtual Network (BAVN), a service provided by the Mayor’s Office of Economic Development. The subcontractor outreach via the internet is less paper-intensive for bidders.

The project was advertised with MBE and WBE anticipated participation levels of 5 percent and 2 percent, respectively, and with mandatory GFE documentation requirements. The GFE requires bidders to provide MBE, WBE and OBE firms an equal opportunity to participate in the performance of all City Contracts. The Office of Contract Compliance

(OCC), based on a review of the documents submitted by LA Engineering, reported that the contractor pledged no MBE or WBE participation levels, but complied with the GFE subcontractor outreach requirements of the bid. The Mandatory Subcontracting Minimum (MSM) requirement for this project is 9 percent and the contractor has complied by pledging a subcontractor participation level of 10.23 percent. This percentage was calculated after subtracting the fixed cash allowance of \$157,500 from the total bid amount. LA Engineering submitted the following OBE subcontractor information:

| Subcontractor | (%) of Bid | Dollar (\$) Amount |
|--|------------|--------------------|
| Blue Iron, Inc. | 9.76 | \$295,200 |
| KM Industrial, Inc. | 1.47 | \$ 44,320 |
| Pacific Coast Steel | 0.98 | \$ 29,584 |
| The Pressure Grout Company | 11.43 | \$345,700 |
| Union Construction & Engineering, Inc. | 3.04 | \$ 92,000 |
| US Controls, Inc. aka REI Electric | 8.63 | \$261,000 |

Compliance with the City’s Non-Discrimination Policies

LA Engineering has complied with the Affirmative Action, Equal Benefits Ordinance and Slavery Disclosure Ordinance requirements of the bid.

Previous Work Record

LA Engineering has compiled the following record of violations while performing construction contracts for the City:

| | Infraction | Fine Amount | Date | Contract No. |
|---|--|-------------|------------|--------------|
| 1 | Project: Harbor Walkway Phase Four (W.O. No. E6000518) | | | |
| | Illegal Reduction of Bid listed Subcontractor | \$2,896.02 | 09/20/2004 | C-102787 |
| 2 | Project: Laurie Drive Landslide Repair Phase II (W.O. No. E1904337) | | | |
| | Illegal Reduction of Bid listed Subcontractor | \$444.23 | 08/25/06 | C-106569 |
| 3 | Project: Warner Center Transit Hub (W.O. No. E1700326) | | | |
| | Illegal Reduction of Bid listed Subcontractor | \$1,770.00 | 12/18/06 | C-106521 |

The contractor has worked on numerous contracts issued by the Board of Public Works. Other than the aforementioned, no significant or unresolved problems in inspection or contract compliance by this contractor have been experienced by the Bureau of Contract Administration (BCA).

The following tables summarize the MBE/WBE/OBE and Disadvantaged Business Enterprise (DBE)/OBE participation levels pledged by LA Engineering in the past five years:

| MBE/WBE/OBE Table | | | | |
|--------------------------|--|---------------------------|---------------------------|---------------------------|
| No. of Contracts | Total Dollar Value of Contracts | Pledged MBE Amount | Pledged WBE Amount | Pledged OBE Amount |
| | | Total MBE (%) | Total WBE (%) | Total OBE (%) |
| 2 | \$3,789,635.00 | \$56,810 | \$0 | \$802,447 |
| | | 1.50% | 0% | 21.17% |

| DBE Table | | | |
|-------------------------|--|---------------------------|---------------------------|
| No. of Contracts | Total Dollar Value of Contracts | Pledged DBE Amount | Pledged OBE Amount |
| | | Total DBE (%) | Total OBE (%) |
| 5 | \$6,877,811.95 | \$725,000 | \$861,062.93 |
| | | 10.54% | 12.52% |

Communications Received

1. In a letter dated April 10, 2009 (Transmittal No. 2), Mr. Hallquist, Vice President of LA Engineering, protested Blois Construction’s bid. Since Blois Construction’s bid is not being considered for this project, staff recommends that the Board receive and file Mr. Hallquist’s letter.
2. In a letter dated May 12, 2009 (Transmittal No. 3), Mr. Blois, Project Engineer of Blois, requested to insert the Bidder Certification CEC Form 50 that was inadvertently left out from their bid proposal.

Staff’s response: As discussed previously the Assistant City Attorney, Mr. Westhoff, was consulted and advised staff that under § 48.09 (H) of the Los Angeles Municipal Code, the bid is deemed non-responsive if the bidder fails to complete and submit the CEC Form 50 with the bid. Therefore, staff recommends that Board receive and file Mr. Blois’ letter.

Enhanced Electrical Safety Policy

Because the estimated value of the electrical work for this project exceeds \$100,000, the electrical work will be performed and inspected under the conditions of the most current, amended Board of Public Works’ Enhanced Electrical Safety Policy.

Contractor Performance Evaluation

In accordance with Article 13, Chapter 1, Division 10, of the City of Los Angeles Administrative Code (L.A.A.C.), the Project Manager and the City Inspector for this construction contract shall submit Contractor Performance Evaluation Reports to the BCA upon completion of this contract.

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Contractor Responsibility Ordinance

All contractors participating in this program are subject to compliance with the requirements specified in the City of Los Angeles' Contractor Responsibility Ordinance No. 173677 (Article 14, Chapter 1, Division 10, L.A.A.C.). Failure to comply with all requirements specified in the Ordinance will render this bidder's contract subject to termination pursuant to the conditions expressed therein.

Conclusion

In view of the above findings, we recommend that the Board declare Blois, first low bidder, to be non-responsive; declare LA Engineering, second low bidder, to be the lowest responsive, responsible bidder; and award LA Engineering the contract for this project.

Notification

The Bureau of Engineering will have notified all concerned contractors prior to the meeting at which this report is presented.

STATUS OF FINANCING

The contract contains a "Financial Liability Clause" which states that "the City's liability under this contract shall only be to the extent of the present City appropriation to fund the contract. However, if the City shall appropriate funds for any succeeding years, the City's liability shall be extended to the extent of such appropriation, subject to the terms and conditions of the contract."

The following funding has been verified and approved by the Director of the Office of Accounting:

| Fund | Contract | Contingencies | Total |
|---|-----------------|----------------------|--------------------|
| 16Q Proposition O General Obligation Bond Department 50 Account No. EA23 | \$3,024,545 | \$302,455 | \$3,327,000 |

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(TSA KKO RTH WFB)

Report reviewed by:

Respectfully submitted,

BOE (POB)

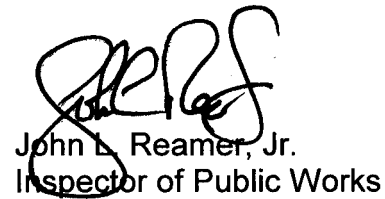


Report prepared by:

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John L. Reamer, Jr.
Inspector of Public Works

Compliance Review Performed
and Approved by:



Hannah Choi, Program Manager
Office of Contract Compliance
Bureau of Contract Administration

Statement as to Funds Approved by:



Craig V. Bloomquist, Director
Office of Accounting

Date: 6/1/09

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Questions regarding this report
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