

Department of Public Works
Bureau of Engineering
Bureau of Contract Administration
Joint Report No. 1

ADOPTED BY THE BOARD
PUBLIC WORKS OF THE CITY
of Los Angeles California

JUN 29 2018

June 22, 2018
CD No. 13


Executive Officer
Board of Public Works

REQUEST FOR AUTHORITY TO PRE-QUALIFY THE SHORT-LISTED DESIGN-BUILD CONTRACTORS ARB STRUCTURES, INC. (ARB) AND MCCARTHY BUILDING COMPANIES, INC. (MCCARTHY) AND RECEIVE BIDS FOR THE NORTHEAST AREA PARKING GARAGE PROJECT (PROJECT) (WORK ORDER NO. E190800D)

RECOMMENDATIONS

1. Find ARB and McCarthy to have substantially met the Business Inclusion Program (BIP) requirements and pass their BIP evaluations as discussed in this report.
2. Authorize the Bureau of Engineering (BOE) to pre-qualify ARB and McCarthy from the short-listed Design-Build Contractors List.
3. Authorize the BOE to solicit bids from ARB and McCarthy from the pre-qualified Design-Build Contractors List.
4. Direct bidders to submit bids to the Board of Public Works (Board) by the ****extended** bid date, ~~July 18, 2018~~ ****from July 11, 2018 to August 1, 2018.**

TRANSMITTALS

1. Copy of letter, dated March 29, 2018, from the Bureau of Contract Administration (BCA) to McCarthy.
2. Copy of McCarthy Revised Schedule A, dated April 13, 2018.
3. Copy of letter, dated May 4, 2018, from ARB to BCA, Office of Contract Compliance (OCC).
4. Copy of ARB Revised Schedule A, dated June 7, 2018.

DISCUSSION

Background

The proposed parking structure, to be located at 3353 N. San Fernando Road, includes the construction of a 4-level parking structure with a minimum of 225 parking spaces, a pre-engineered car wash, a pedestrian bridge and a modified fuel dispensing facility, to be built on an existing parking lot next to the new Northeast Area Police Station.

For the Project, bridging documents were completed and a Request for Qualifications (RFQ) was developed for distribution to the contract community that has experience with this building type, and a short-list of contractors would be established.

Due to time constraints, once the short-list was established, the Project was released for bid submission to the short-listed contractors. The short-listed contractors would have to be pre-qualified prior to the bid due date in order for their bids to be deemed responsive.

The short-listed contractors were invited to prepare and submit bids, with the understanding that only bids from pre-qualified contractors would be opened, and the pre-qualified contractor that submits the lowest responsible and responsive bid would be selected for award of a contract. The pre-qualification process ran concurrent with the request for bids, and contractors were required to be pre-qualified prior to the date established by the Board for the opening of bids.

This method of bridging documents with short-listed and pre-qualified firms was used to expedite the start of and the construction of the parking garage since the current parking for Los Angeles Police Department (LAPD) vehicles is severely impacted.

Selection Process Summary

The RFQ was posted on the City of Los Angeles (City) Business Assistance Virtual Network (BAVN) website at <http://www.labavn.org> on January 18, 2018 and a pre-submittal meeting took place on January 30, 2018. Six of the participating companies at the pre-submittal meeting were Design-Build Contractors. The deadline for the RFQ questions was on February 22, 2018 and Statement of Qualifications (SOQs) were due on March 8, 2018.

Two of the Design-Build Contractors (ARB and McCarthy) submitted a SOQ and met the criteria to be short-listed. The Project was released to the two short-listed contractors on April 2, 2018 with bids due on May 9, 2018.

After being short-listed, both ARB and McCarthy withdrew from the bidding process and indicated that they would not be able to submit bids.

They provided several reasons for not being able to submit a bid which included not fully understanding the BIP requirements and the inability to obtain needed subcontractors prior to the bid deadline due to all of the construction work opportunities currently available.

Recommendation

The City Engineer recommends that ARB and McCarthy be pre-qualified and allowed to submit bids for the following reasons:

June 22, 2018
Page 3

1. In the present building construction environment, a re-bid of the Project could see a significant cost escalation and will delay completion of the Project.
2. Since both firms were short-listed and will have to meet the same requirements to be pre-qualified, there is no advantage or disadvantage to either firm.
3. This Project includes a Project Labor Agreement (PLA) and the contractor will have to meet the local hiring and other requirements to show compliance.
4. The client, the LAPD parking operations is being severely impacted by the lack of this parking garage. Leases by LAPD from neighboring parking lots are about to expire, and securing extensions of the leases may prove difficult and exacerbate their parking problems.
5. Pre-qualified contractors that design and build parking structures will more likely be timelier in completing the Project, given past experiences with this building type.

BIP

In compliance with the Mayor's Executive Directive No. 14, issued on January 12, 2011, it is the policy of the City to provide Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Small Business Enterprise (SBE), Emerging Business Enterprise (EBE), Disabled Veteran Business Enterprise (DVBE), and all Other Business Enterprise (OBE) firms an equal opportunity to participate in the performance of City contracts. Additionally, this RFQ is subject to the BIP Outreach Requirements included in Attachment 7 of the RFQ. Performance of a BIP Outreach to MBE, WBE, SBE, EBE, DVBE, and OBE subcontractors must be completed utilizing the City's BAVN service at <http://www.labavn.org>. For this RFQ, the City has established anticipated participation levels of 8 percent MBE, 4 percent WBE, 15 percent SBE, 4 percent EBE, and 2 percent DVBE.

In order to become prequalified in Phase One, it is mandatory for all contractors to comply with the BIP Outreach Requirements utilizing the BAVN system. All BIP Outreach documentation must be completed and submitted through the BAVN by 4:30 p.m. on the first calendar day following the bid due date. Failure to perform and to pass the BIP Outreach requirement will render the Bid non-responsive, and the contractor will be prohibited from advancing to Phase Two of the RFQ evaluation process.

Per the requirements of BIP Indicator 6: Negotiated in Good Faith, (BIP Indicator 6) "The respondent has responded to every unsolicited offer sent by a registered subconsultant using BAVN and has evaluated in good faith bids or proposals submitted by interested potential MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs. Respondents must not unjustifiably reject as unsatisfactory a bid or proposal offered by a registered subconsultant, as determined by the Board." Additionally, "For the purposes of this RFQ, letters of intent acknowledging a potential subcontractor's interest in being contacted for work and/or hourly rates for their type of work will be considered the bids or quotes received."

Required documentation for BIP Indicator 6 includes:

- a. Schedule A List of Potential MBE/WBE/SBE/EBE/DVBE/OBE Subcontractors;
- b. An online Summary Sheet organized by work area, listing the following:
 - 1) The responses and/or bids received;
 - 2) The name of the potential subcontractor who submitted the bid/quote;
 - 3) A brief reason given for selection/non-selection as a potential subcontractor;
- c. Copies of all potential MBE/WBE/SBE/EBE/DVBE/OBE bids or quote received must be submitted through the BAVN to the "BIP Supporting Documents" section of the Summary Sheet tab prior to award of a contract by the City.

McCarthy

In a letter dated March 29, 2018 (Transmittal No. 1), the BCA's OCC notified McCarthy that staff had reviewed their BIP Outreach documentation and found that they did not pass the BIP evaluation. Specifically, the OCC found that McCarthy did not meet the requirements of BIP Indicator 6 by failing to modify their Summary Sheet and submit Letters of Intent. McCarthy responded stating that "No bids/quotes are received during this phase of the project" and "We will not be selecting or contracting with subcontractors until the bidding and/or post-award phase of the project."

During a phone call made on April 11, 2018, the OCC spoke with representatives of McCarthy to discuss their BIP Evaluation fail letter. McCarthy explained that they failed to recognize the BIP Outreach Summary Chart was different from the online BIP Summary Sheet, and did not realize Letters of Intent are considered bids or quotes.

On April 13, 2018, McCarthy submitted copies of Letters of Intent, and a Revised Schedule A (Transmittal No. 2); however, their revised Schedule A listed only 124 subcontractors while their original Schedule A included about 1,545 subcontractors. Staffs review of the Revised Schedule A found only 64 were listed on the Original Schedule A. Additionally, only 5 out of the 124 subcontractors on their revised Schedule A were listed on their online

June 22, 2018
Page 5

BIP Summary Sheet. McCarthy subsequently explained that they misunderstood that their Schedule A was to include only subcontractors that provided Letters of Intent, and that they were unable to edit their BIP Summary Sheet again. McCarthy further stated that they obtained additional subcontractors through their attendance at the BuildWith L.A. City Construction Matchmaking Event; however, Staff noted that only 12 of the new Schedule A subcontractors attended the BuildWith event which was held on February 27, 2018, which was 9 days before bids were due March 8, 2018. McCarthy explained “they did not do a good job of coordinating their internal efforts in responding to SOQ for the project with the results of their attendance at the Matchmaking Outreach event.”

In view of the above findings, BCA could not pass McCarthy on their BIP evaluation.

ARB

Staff reviewed their BIP Outreach documentation and found that the only issue delaying them from passing the BIP evaluation was their lack of Letters of Intent from subcontractors listed on their Schedule A. Staff requested that ARB submit bids or quotes; however, due to time constraints, ARB only submitted 50 Letters of Intent from the 500 subcontractors listed on their original Schedule A.

On May 3, 2018, the OCC notified ARB by email that if a sufficient number of Letters of Intent were not submitted that the OCC would be recommending they be deemed nonresponsive for failing to meet the requirements of BIP Indicator 6. ARB responded on May 4, 2018 (Transmittal No. 3), stating they would no longer be submitting a bid for the Project.

On May 23, 2018, ARB met with staff and explained that they did not fully understand the requirements of the Schedule A.

On June 7, 2018, ARB submitted a Revised Schedule A (Transmittal No. 4) consisting of a total of 136 potential subcontractors, 59 of which were listed on the original Schedule A. ARB also submitted Letters of Intent for 22 of the 136 potential subcontractors on their Revised Schedule A.

In view of the above findings, BCA could not pass ARB on their BIP evaluation.

Conclusion

For all of the reasons stated above, staff recommends that the Board find ARB and McCarthy to have substantially met the BIP requirements, therefore passing their BIP evaluation, and becoming pre-qualified.

(ATK EO RMK DW CLS)

Report reviewed by:

BOE (ADM and PAC)

Report prepared by:

Bond Programs Division

Allan T. Kawaguchi, PE
Division Engineer
Phone No. (213) 485-4687

Compliance Review performed
and approved by:



Hannah Choi, Assistant Director
Bureau of Contract Administration

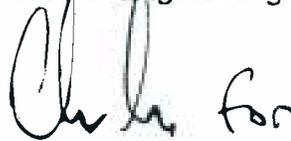
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Questions regarding this
report may be referred to:
Ioana June, Civil Engineer
Phone No. (213) 485-4556
E-mail: ioana.june@lacity.org

Respectfully submitted,



Gary Lee Moore, PE
City Engineer
Bureau of Engineering



John L. Reamer, Jr.
Inspector of Public Works
Bureau of Contract Administration