
Simpson Strong Tie Materials Demonstration Lab Project MAJ 07-0039

Questions and Responses #6

PROJECT MANAGER:

Perry Judd
Project Manager
Facilities Planning & Capital Projects
pjudd@calpoly.edu

ARCHITECT/ENGINEER:

Omni Design Group
689 Tank Farm Road, Suite 140
San Luis Obispo, CA 93401

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before 2:00 p.m.

The following information is provided for the convenience of the bidders, and is not a part of the Addenda. Questions and requests for clarifications received to date are repeated for all those who have the plans and specifications followed by the response.

6-1 Question:

We understand that there have been some recent changes in the law related to Disabled Veteran Business Enterprises (DVBES) and the way that public contracting is handled with regard to California certified DVBES. Is this correct?

Response:

Yes. Assembly Bill No. 21 (AB 21) amended Sections 10115.2, 10115.15, 10430, 10472, and 12112 of the Public Contract Code, effective immediately on July 28, 2009.

6-2 Question:

Could you briefly summarize your understanding of AB 21 as to this particular project bid?

Response:

*AB 21 amends Public Contract Code Section 10115.2 and states that "In awarding contracts to the lowest responsible bidder . . . the awarding department shall consider the efforts of a bidder to meet . . . disabled veteran business enterprise goals set forth in this article. **The awarding department shall award the contract to the lowest responsible bidder meeting these goals.**"(emphasis added)*

In order to be deemed as a responsive bidder (among other requirements), a bidder must meet the 3% California certified DVBE goal. That is, bidders who indicate participation by less than 3% California certified DVBEs will be deemed non-responsive, and their bids will be rejected from consideration.

6-3 Question:

Is your understanding that AB 21 now requires a bidder to either be a California certified DVBE or hire California certified DVBE suppliers and subcontractors for at least 3% of the total project value in order to be deemed a "responsive" bidder?

Response: Yes.

6-4 Question:

What if our firm is not a California certified DVBE. If we undertake a "good faith effort" to hire California certified DVBE suppliers and subcontractors for at least 3% of the total project value, but are unable to do so, does the "good faith effort" meet the standard in Public Contract Code Section 10115.2 for us to be treated as meeting the California certified DVBE goals?

Response:

No. In fact, AB 21 did away with the "good faith effort". The new requirement is to meet or exceed the 3% California certified DVBE goal.

If you read AB 21, part (1), it states that "This bill would delete the requirement that, if a bidder fails to demonstrate a good faith effort in attaining these goals, the awarding department must award the contract to the next lowest responsive and responsible bidder." Then, in amending Public Contract Code Section 10115.2, all of the language in former subsection (b) was deleted by AB 21. If you look at the former subsection (b), that contained the "good faith efforts" requirement, which was eliminated by AB 21.

6-5 Question:

Assume that our firm is a California certified DVBE and submits a bid. Our competitor is not a California certified DVBE, but certifies (on appropriate documents in the bid package) that they will use California certified DVBE suppliers and subcontractors for at least 3% of the total project value. Does our firm receive a preference in selection because we are a California certified DVBE and our competitor is not?

Response:

No. Under the facts that you presented, your competitor is meeting the California certified DVBE goals (3% or more) and therefore, assuming you are the only two bidders and you are both deemed responsive, the award (subject to the right to cancel all bids by the Trustees) would go to whichever of you has the lowest priced bid.

6-6 Question:
How do I indicate that my firm is a California certified DVBE, or that my firm commits to use California certified DVBE suppliers and subcontractors for at least 3% of the total project value?

Response:
Appropriate documents will be included in the bid package.

6-7 Question:
Assume there are two bidders on a project. My firm meets the California certified DVBE goal of 3% and is also a California certified small business enterprise. My firm is "Bidder A" on a project. My competitor, "Bidder B," meets the California certified DVBE goal of 3% but is not a certified small business enterprise. Assuming we are both responsive bidders, which one of us will win the bid?

Response:
The California certified small business enterprise bid preference will be calculated in your total bid to determine your final bid price. After calculating that bid preference, the University will determine the lowest price, responsive bidder.

6-8 Question:
Did AB 21 change any bid preferences for California small business enterprises?

Response:
No, the applicable bid preferences for California small business enterprises remain in effect. See, for example, California Government Code Section 14835 et seq., and Title 2 California Code of Regulations Section 1896 et seq.

6-9 Question:
Where can I get more information on DVBE and SBE?

Response:
Visit our website: <http://www.afd.calpoly.edu/cprm/smallbusdvbe.asp?pid=4>

Visit the website for the State of California, Department of General Services:
<http://www.pd.dgs.ca.gov/smbus/default.htm>

or
<http://www.pd.dgs.ca.gov/smbus/getcertified.htm>

Visit the California Disabled Veteran Business Alliance:
<http://www.cadvbe.org/>

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