

**DEPARTMENT OF TRANSPORTATION**

DIVISION OF ENGINEERING SERVICES

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Making Conservation  
a California Way of Life.

June 21, 2024

E-Mail: nicolas@nicoeng.com

Nicolas Hernandez Lopez, President  
Nico Engineering Inc.  
1409 Colin St  
San Pablo, CA, 94806

08-1J6204  
08-SBd-Location Code 5713  
B.O. 5/21/24

Dear Mr. Lopez:

The Department of Transportation (Caltrans) received a letter dated June 6, 2024, from Nico Engineering Inc. (Nico), protesting the bid submitted by Preferred General Services (Preferred) and Kanaan Construction (Kanaan), for the above Non-Federal-Aid referenced contract. The protest alleges that Preferred's bid bond is not valid due to a missing signature. The protest also alleges that Kanaan is nonresponsive for claiming participation listed in its DVBE Summary form that does not match its DVBE amount listed its corresponding DVBE quotes, not submitting the DVBE declaration, and submitting incomplete SBE forms.

Caltrans need not comment on Nico's allegations against Kanaan, as Kanaan is not currently under review as the low bidder.

Caltrans has reviewed Nico's protest and Preferred's bid documents and directs Nico's attention to 2023 Standard Specification, section 2-1.34 Bidder's Security, which states in part,

"Submit one of the following forms of bidder's security equal to at least 10 percent of the bid:

1. Cash
2. Cashier's check
3. Certified check
4. **Signed bidder's bond by an admitted surety insurer**
5. Electronic bidder's bond by an admitted surety insurer submitted using an electronic registry service approved by the Department

Submit cash, cashier's check, certified check, or bidder's bond to the Department's Office of Construction Contract Awards before the bid opening time.

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Submit an electronic bidder's bond with the electronic bid. If using a bidder's bond, you may use the form in the Bid book. If you do not use the form in the Bid book, use a form containing the same information." (Emphasis added.)

After reviewing these matters and the related documentation, Caltrans finds that Preferred's bid bond is valid as it was indeed signed by an admitted surety insurer. Caltrans also verified with the bond surety that the bond is valid. As such, the bid bond submitted by Preferred is valid and acceptable. Even if the circumstances surrounding Preferred's bid bond submittal was a deviation from the bidding requirements, Caltrans finds that this is an immaterial deviation, as it does not grant Preferred a competitive advantage over other bidders. As such, Caltrans hereby exercises its broad discretion and waives this immaterial deviation.

Based on the above, Caltrans will proceed to award the contract to the lowest responsive and responsible bidder, provided that all requirements are met.

If you have any questions, please contact Juan Loera, Contract Awards Branch Chief at (916) 227-5964.

Sincerely,

*April Perez-Hollins*

April Perez-Hollins  
Office Chief  
Construction Contract Awards  
Program/Project Management & Office Engineer  
Division of Engineering Services