



March 21, 2018

Via E-mail

calcianog@sacsewer.com

Mr. Graham Calciano
Sacramento Regional County Sanitation District
8521 Laguna Station Rd.
Elk Grove, CA 95758

RE: Tertiary Treatment Facilities Project, Contract No. 4283

Dear Mr. Calciano:

Balfour Beatty Infrastructure, Inc. (“Balfour Beatty”), the low bidder and intended awardee on the referenced solicitation, has reviewed the protest filed by Flatiron Dragados JV dated March 15, 2018. The issues raised by Flatiron Dragados in its protest letter do not set forth valid grounds for a protest of Balfour Beatty’s bid and therefore the protest should be denied.

Balfour Beatty addressed the first basis for Flatiron Dragados’ protest – that Balfour Beatty submitted its bid using the Addendum 4 Bid Form rather than the Addendum 5 Bid Form – in its letter to you dated March 2, 2018. This is clearly a minor deviation having no impact on the competitive bids, and nothing in Flatiron Dragados protest letter supports a contrary finding. Moreover, as explained in our earlier letter, Flatiron Dragados is simply wrong that Balfour Beatty’s bid price “does not include the Allowance added in Addendum 5 and does not incorporate the additional cost.” Protest at p. 4. Balfour Beatty’s bid expressly recognized receipt and acceptance of all addenda and its price clearly reflects inclusion of the Addendum 5 allowance.

Flatiron Dragados’ second basis for protest is that Balfour Beatty failed to list a prequalified subcontractor for Instrumentation and Control. As set forth in its Bid, Balfour Beatty intends to issue a subcontract to Helix for the Electrical and Instrumentation project work. Helix will, in turn, subcontract with one of the companies prequalified for Instrumentation and Control. Since the Instrumentation subcontractor will be a lower-tier subcontractor, Balfour Beatty is not required to include it on the prime contractor’s Proposed Subcontractors Form. Public Contract Code § 4104(a)(1) makes clear that only

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subcontractors to the prime contractor, not lower-tier subcontractors, must be listed in the prime contractor's bid.

There is nothing in the solicitation or California law to support Flatiron Dragados' claim that the Instrumentation and Control subcontractor must be separately listed on the Proposed Subcontractors Form. Indeed, Dragados listed one subcontractor for both Electrical and Instrumentation on its Proposed Subcontractor Form submitted with its recent bid to the District on the Biological Nutrient Removal (BNR) Project. See Exhibit A at 00 43 36-2. Dragados cannot now argue that the approach is improper. In fact, the District advised Balfour Beatty when bidding BNR that it should not list second tier subcontractors on the Proposed Subcontractors Form but rather, the Instrumentation subs will be verified after bid. See Exhibit B. This instruction by the District is consistent with Public Contract Code §4104(b) that the bidder shall set forth in its bid "the portion of the work that will be done by each subcontractor under this act. The prime contractor shall list only one subcontractor for each portion as is defined by the prime contractor in his or her bid."

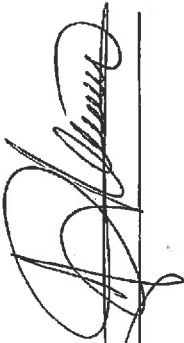
The third and final argument presented by Flatiron Dragados is that Balfour Beatty's subcontractor, Helix, will not be able to perform 75% of the scope of its subcontract work with its own organization and workers under its supervision and control. Flatiron Dragados' own bidding documents establish that this argument is completely unfounded. Specifically, Flatiron Dragados lists Helix for Electrical at \$40 million and TSI for Instrumentation at \$12 million. This establishes that Electrical represents approximately 77% and Instrumentation represents approximately 23% of the combined Electrical and Instrumentation portion of the work. In Balfour Beatty's bid, the portion of the total Electrical and Instrumentation bid that will be subcontracted by Helix to the Instrumentation subcontractor is even less. Since Helix is performing all electrical work with its own forces, it will perform at least 75% of the subcontract value as required by the Bid Documents.

Sincerely yours,



Crandall Bates
Vice President and Regional Manager

PROPOSED SUBCONTRACTORS

Signed 

<u>Type of Work</u>	<u>Percent (%) of Contract</u>	<u>Subcontractor (Include CA License Number)</u>	<u>Business Address</u>
ELECTRICAL, PARTIAL + RELATED INSTRUMENTATION AND CONTROL, PARTIAL AND RELATED	15%	SAN JOAQUIN ELECTRIC, INC. # 410103	2342 TEEPEE DR., P.O. BOX 30088 STOCKTON, CA 95213

END OF SECTION

"Exhibit A" Dragados Bid BNR

From: BNRbids <BNRbids@sacsewer.com>
Sent: Friday, February 05, 2016 11:03 AM
To: Miller, Brian
Cc: Traverso, Pat
Subject: Re: Echowater BNR Electrical / Instrumentations Listing
Attachments: image003.jpg

Do not list them if they are second tier. We will verify the instrumentation subs after bid, but prior to their doing any work.

Mark

From: Brian Miller <BMiller@bbiius.com>
Sent: Thursday, February 4, 2016 3:17 PM
To: BNRbids
Cc: Pat Traverso
Subject: Echowater BNR Electrical / Instrumentations Listing

Mark - On your "Lessons Learned" form in the dropbox link it says to list only first tier subcontractors. All the electrical subcontractors bidding will be carrying the instrumentation subcontractor as a second tier sub. Our concern is the electrical subs are not "pre-approved" instrumentation subcontractors. We would like direction on how and/or if we should list an instrumentation subcontractor.

Regards,

Brian Miller
Lead Estimator | Balfour Beatty Infrastructure, Inc.
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5050 Business Center Drive, Suite 250, Fairfield, CA, 94534-6886 www.bbiius.com<<http://www.bbiius.com/>> |
[LinkedIn](https://www.linkedin.com/company/balfour-beatty-infrastructure-inc.)<<https://www.linkedin.com/company/balfour-beatty-infrastructure-inc.>>
[\[cid:image003.jpg@01D15F5F.20FCB820\]](#)

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EMAIL DISCLAIMER:

1 "Exhibit B"