



Public Service Commission

State of North Dakota

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April 29, 2009

Mr. Brad Nelson
B & C Concrete Pumping, Inc.
1502 West Broadway
Williston, ND 58801

Dear Mr. Nelson:

This letter is in response to your protest dated April 21, 2009, of the Commission's intent to award a contract to Agri Industries, Inc., of Williston, ND for the 2009 Williams County Road 9 Phase 4, AML Project. Under North Dakota Administrative Code section 4-12-14-02, the Procurement Officer has seven calendar days to review this protest and render a written decision. During the time the protest is being considered the award will be stayed.

In your protest, you asserted that Agri Industries, its subcontractors and suppliers, do not have the experience, technical skills, and equipment to complete the project.

Agri Industries, Inc. has provided information in its prequalification package that demonstrates its capability and equipment to provide the required drilling, casing, grout formulating and delivery, and grout pumping techniques applicable to abandoned underground mine reclamation for the 2009 Williams County Road 9 Phase 4, AML Project.

Agri Industries provided details and contact information for several successful projects involving rotary drilling techniques and the installation of casing similar to those required in our project. Agri Industries also submitted an equipment list that includes drilling rigs and other equipment that appear adequate for this project. Several of Agri Industries employees have engineering degrees and some are licensed North Dakota Water Well Drillers.

McCody Concrete, the proposed grout supplier, has master's certificates in Business & Project Management, Concrete Basics and Concrete Mix Designs. McCody supplied documentation of extensive experience in formulating, batching, transport and pouring for all concrete applications. McCody listed ten mixer trucks and three batch plants, all in good to excellent condition that could be used for this project. McCody worked successfully with you in delivering and pouring grout for the 2008 Williston (Njos) Emergency Project, and has provided references for other projects demonstrating their concrete batching and delivery experience.

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Hughes Concrete Pumping, the proposed grout pumping subcontractor, is a member of the American Concrete Pumping Association and a certified concrete finisher. Hughes indicated that its employees have seven years of grout and concrete pumping experience and have worked on grout pumping projects for abandoned mine reclamation. Hughes listed Schwing and Mayco concrete pumps in good or excellent condition which appear adequate for this job. Hughes also submitted references demonstrating their pumping experience, including work on abandoned mine projects near Fairview, MT with Arvid Barstad.

I called project references supplied by Agri Industries, McCody, and Hughes and all indicated that the listed projects were completed satisfactorily.

After carefully considering your protest and all prequalification information submitted by Agri Industries, Inc., I find that Agri Industries, together with its subcontractors and suppliers, have met prequalification criteria and are qualified to bid and conduct this project. Therefore, the Commission intends to award a contract to Agri Industries, Inc. for the 2009 Williams County 9 Phase 4, AML Project. You may appeal this decision, within seven calendar days of receipt, to the Director of the North Dakota Office of Management and Budget or her designee. If you decide to appeal, please address it to Sherry Neas, State Procurement Director, 600 East Boulevard Avenue, Department 012, Bismarck, ND, 58505-0310.

We appreciate your work on previous mine reclamation projects and look forward to working with you again in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Oswald", written in a cursive style.

Tim Oswald,
Procurement Officer and Project Manager

CERTIFIED MAIL