

OFFICE OF THE CITY MANAGER

AUGUST 13, 2007

TO: CITY COUNCIL

FROM: CITY MANAGER

**RE: CONTRACT AWARD TO MANUEL BROS., INC. FOR THE SR710
MITIGATION – TRAFFIC AND MONITORING SYSTEM – ITS
PROJECT FEDERAL AID PROJECT NO. RABA01-5064(045)**

Should the City Council decide to reject all bids and direct staff to re-bid the project, it is recommended that the following changes be incorporated into the project specifications:

A) Define the use of apprentices under the contract to include the following program requirements as constituting "Good Faith Effort": 1) Contractors will be required to notify all applicable apprenticeship committees in applicable crafts or trades within the geographic region of the project site. Submit a request for dispatch of apprentices from an Apprenticeship Committee. 2) If the Apprenticeship Committee fails to dispatch any apprentices or dispatches fewer apprentices than the contractor requested, the contractor shall make further requests from at least two additional Apprenticeship Committees. 3) If the Apprenticeship Committees fail to dispatch any apprentices or fewer than requested, the contractor will have a continuing obligation to make written requests to all Apprentice Committees until either sufficient apprentices are employed or 70% of the contractor work on the project is completed as determined by the City.

B) Amend the scope of work to add the CCTV cameras and changeable message board locations that had been previously removed. In addition remove two intersections from the bid that will be completed as part of projects undertaken by the County of Los Angeles and Caltrans.

City Council

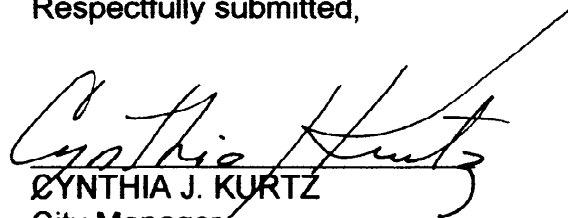
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Another potential change would be to impose additional licensing requirements indicating that the responsible bidder would be required to hold an active Class A and C-10 State Contractors License. Staff would not recommend this language be added as it appears there is consensus that only an active Class A license is required to complete this work.

The City Council also requested staff to confirm that the two bidders have the ability to perform on schedule should the contract be awarded. The contractors have indicated that they will perform the construction within the timeframes established in the bid documents.

The City received copies of letters sent to the City of Los Angeles from IBEW regarding alleged labor violations by Manuel Bros. on their Mid-Wilshire ATSAC contract (Attachment A). Staff is contacting the City of Los Angeles to determine if an investigation has determined any additional violations. Staff will provide this information during the oral presentation.

Respectfully submitted,



CYNTHIA J. KURTZ
City Manager

ATTACHMENT A



International Brotherhood of
Electrical Workers, AFL-CIO

P.O. Box 2500
297 North Main Street
Pasadena, CA 91102-2500
Phone: (626) 243-9700
Fax: (626) 796-8612

August 7, 2007

City of Los Angeles
1149 S. Broadway, 3rd Floor
Los Angeles, Ca. 90015

Mr. Manny Perez
Attn: Mr. Chris Jenson
Labor Compliance Analyst
Office of Contract Compliance

Re: Mid-Wilshire ATSAC
Contractor: Manuel Bros., Inc.

Dear Chris,

As the Compliance Audit and assessment was performed in regards to the previous project with the City of Los Angeles (Western Ave ATSAC) and penalties and fines were assessed against Manuel Bros. Inc, it has come to my attention that the same Labor Code Violations are in practice on this City of Los Angeles Project.

Please report the efforts undertaken by this Contractor to date, which would indicate that they are in Compliance with the Labor Code in regards to the employment of Craft Apprentices on the Mid-Wilshire Project
The Misclassification of worker remains in practice by them and the underpayment of prevailing wages are ongoing.

The efforts of the Sub Contractor to employ apprentices are also void of any efforts to comply.

We expect that during the progress on the project, your Analyst is finding the non-compliance apparent, we expect that Manuel Bros., Inc. along with its Sub contractor are doing Electrical Work with Laborer's Classifications and with non-certified Electricians via the requirements of State Labor Code 3099 and California Code of Regulations 832.10.

We anticipate that in fact, monies will be withheld in regards to those violations and their quantification is yet to be known.

Please respond as to the condition on this project. Your response is necessary in a timely manner, so if you might give me an initial reply by Friday August 10, 2007, that would be greatly appreciated

Thank You,

Patrick J. Owens

Patrick J. Owens
IBEW Local 11
Compliance



International Brotherhood of
Electrical Workers, AFL CIO

P.O. Box 2500
297 North Marengo Avenue
Pasadena, CA 91102-2500
Phone: (626) 243-9700
Fax: (626) 296-8917

August 7, 2007

City of Los Angeles
1149 S. Broadway, 3rd Floor
Los Angeles, Ca. 90015

Mr. Manny Perez
Attn: Mr. Chris Jenson
Labor Compliance Analyst
Office of Contract Compliance

Re: Western Avenue ATSAC
Contractor: Manuel Bros., Inc.

Dear Chris,

Based on your Compliance review and Audit of this Contract, please confirm initiation of the Request for Investigation by the Division of Apprenticeship Standards for the non-use of Craft Apprentices on this project required by the labor code

Your Compliance review and audit support that Manuel Bros., Inc. did not employ apprentices from any craft

If you have any questions in regards to this request, please contact me at 626-255-2706 cell.

Thank you for your attention to this matter

Patrick J. Owens
IBEW Local 11
Labor Compliance



International Brotherhood of
Electrical Workers, AFL-CIO

P.O. Box 2500
297 North Marengo Avenue
Pasadena, CA 91102-2500
PHONE: (626) 243-9700
FAX: (626) 796-8612

July 30, 2007

ATTENTION DEBRA ESTRADA, LABOR COMPLIANCE MANAGER
State of California
Department of Transportation, District 7
100 S. Main Street
Los Angeles, CA 90012

PROJECT: **FORMAL PAYROLL REQUEST**
Install Adaptive Signal Control
Federal Aid ACST-POO1-(530) E
P-001 (530) E
ACIM-105-3 (034) E
Contract #07-257304
Location 07-LA-1-0.2/40.8
Bid Date: January 1, 2007

CONTRACTOR: **Manual Brothers Inc.**
P.O. Box 995
Grass Valley, CA 95945

Dear Ms. Estrada:

This is a formal request for Certified Payroll Records and Audit of Certified Payroll Records and *Inspectors Logs* for Manuel Brothers Inc., on the above referenced project. We are requesting payroll records from inception to the present date of the project, pursuant to the California Public Records Act., Government Code Section 6250, et seq. and the California Labor Code, Sections 16400 and 1776.

We have a specific interest in regards to the use of Intelligent Transportation Systems Electricians, DOT Code, No. 824-381 010, DAS File No. 10243, and the use of Transportation Systems Apprentices identified, via the same DOT Code.

Please also be advised we are interested in the use or non-use of State of California Certified Electricians via the requirements of California Labor Code 3099.2, and

California Code of Regulations 832.10 which identifies the "scope of work" for Electrical work.

Please advise us to the reproduction costs for these records request and please forward the payroll records to the IBEW, Local 11, P.O. Box 2500, Pasadena, CA 91102, to the attention of Patrick J. Owens.

We will gladly cover the cost of reproduction of the records.

If you have any questions, please don't hesitate to contact me at 626-243-9729.

Very truly yours,

Patrick J. Owens

Patrick J. Owens
Compliance

10/1/11
11/1/11

patrick owens

From: "Debra Estrada" <debra_estrada@dot.ca.gov>
To: "pjowens12@msn.com">
Sent: Monday, August 06, 2007 3:00 PM
Subject: Fw: 07-257304

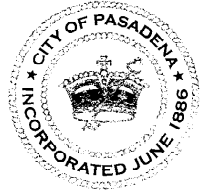
See below

----- Forwarded by Debra Estrada-D07 Caltrans CAGov on 08/06/2007 03:00 PM

Debra
Estrada-D07 Caltr
ans CAGov
pjowens12@msn.com
08/06/2007 02:07
PM
Subject
07-257304

Pat, this is to acknowledge that a request, dated July 30, 2007, from your office, was received by Caltrans, D-07, Office of Labor Compliance, requesting copies of certified payrolls for Contract # 07-257304, the prime contractor is Manual Brothers, Inc. Your request is also asking for an audit of the certified payrolls on this project.

Debra Estrada, Labor Compliance Manager
Caltrans, D-07
Office of Labor Compliance



OFFICE OF THE CITY MANAGER

DATE: August 6, 2007
TO: City Council
FROM: City Manager
RE: Contract Award to Manuel Bros., Inc. for the SR 710 Mitigation – Traffic and Monitoring System – ITS Project Federal-Aid Project No. RABA01-5064(045)

The City Council took action at their meeting on July 23, 2007 regarding the contract award to Manuel Bros., Inc. for the SR 710 Mitigation – Traffic and Monitoring System – ITS Project Federal-Aid Project No. RABA01-5064(045), issuing Manuel Bros. a potential finding of nonresponsibility (Attachment A). The grounds for this potential finding include:

- 1) The inability to employ apprentices as required by California Labor Code Sections 1777.5;
- 2) Labor code violations concerning the payment of wages in their contract with the City of Los Angeles; and
- 3) Proper licensing to perform the work on the City's project.

In addition to a written response to the notice of potential nonresponsibility (Attachment B), Manuel Bros., Inc. will be afforded an opportunity to present oral testimony in rebuttal of the potential finding at the City Council meeting of August 6, 2007.

As requested of staff at the City Council meeting on July 23, 2007, the potential nonresponsibility grounds were reviewed and the information is provided as follows:

1) Apprenticeship Programs

Manuel Bros. has provided a response indicating that their subcontractor on the project is signatory to the IBEW, and should be able to acquire Electrician Apprentices on this project.

In addition to the "transportation systems electrician" apprenticeship program identified by IBEW, staff has identified other apprenticeship programs which are applicable to the City's project. In addition to transportation systems electrician, the other trades which apply to this project include operating engineer, laborer, electrician, and cement mason. The State of California Division of Apprenticeship Standards (DAS) currently lists apprenticeship programs in these trades.

2) City of Los Angeles Labor Compliance

The City of Los Angeles contracted with Manuel Bros., Inc. for the Transit Priority System / Automated Traffic Surveillance and Control - Installation of Western Avenue/Santa Monica Boulevard/Long Beach Boulevard project for an original contract amount of \$4,970,000. The total value of work completed on this project is \$7,793,314.94. Staff obtained a copy of the Assessed Wage and Penalty Log that was issued to Manuel Bros., Inc. by the City of Los Angeles (Attachment C). The total amount assessed to Manuel Bros., Inc. for labor code violations is \$37,305.24, which includes \$14,845.98 in wage restitution, \$22,400 in penalties, and \$59.26 to be paid into the State of California Division of Apprenticeship Standards training fund. The final assessment of \$37,305.24 for labor compliance violations represents about one-half of one percent of the total value of the project.

It appears that the majority of the restitution and penalty is related to one employee who was performing work that is not considered Electrical work in most jurisdictions, but, due to special definitions adopted by the City of Los Angeles, is Electrical work on City of Los Angeles projects.

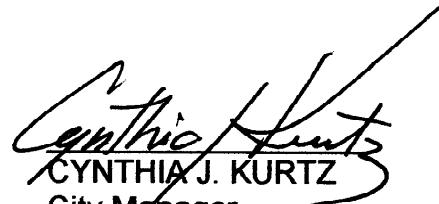
3) Contractors License

Staff has been advised by legal council that a contractor holding a class "A" General Engineering contractor's license qualifies to perform the work on the SR 710 Mitigation – Traffic Control and Monitoring System – ITS project. A class "A" contractor's license enables the contractor to perform specialty trades, including electrical work covered under a class "C-10" Electrical contractor's license. Current law requires that an electrician working for a "C-10" contractor be certified through the State of California DAS. This does not preclude a contractor holding only a class "A" contractor's license from employing certified electricians on their workforce.

City Council
August 6, 2007
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Lastly, staff was requested to review the bid of the second lowest bidder, Terno, Inc. Staff conducted a review of Terno, Inc., including research of their completed and ongoing projects, and licensing status of Terno Inc. and their listed subcontractors, and has determined that their bid is responsive and they are a responsible bidder.

In addition to the letter received from Manuel Bros., we have also attached a letter that was submitted on behalf of IBEW Local 11 by their attorney (Attachment D).


CYNTHIA J. KURTZ
City Manager