

THOMAS P. DINAPOLI
STATE COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

January 23, 2009

Mr. Jeffrey Sadowsky
President
Knightsbridge Construction Corporation
33 Great Neck Road
Great Neck, New York 11021

Dear Mr. Sadowsky:

This is in response to your two protest letters dated October 31, 2008 and November 10, 2008, regarding the State University Construction Fund's ("SUCF") vendor selection for the State University of New York at Old Westbury, Student Services Area Campus Center, Bookstore Renovations Project (Contract #D005431). In your letters you assert that Stalco Construction Inc. ("Stalco") was non-responsive to the Information for Bidders ("IB") because: (1) Stalco altered the bid proposal form and qualified its bid; and (2) Stalco made an improper and untimely change in its Asbestos Abatement subcontractor.

Our Office has completed its review of the above-referenced contract. As part of our review, we examined the procurement record compiled by SUCF, the concerns cited in your correspondence, and SUCF's response thereto (correspondence from William Barczak, Acting General Counsel, dated November 20, 2008).


First, we do not agree that Stalco qualified its bid. It is apparent on the face of Stalco's bid, that Stalco's total bid for the project (all work and field order allowance) was \$ 1,646,000.00. While the Stalco bid did list an alternate, as stated in SUCF's letter to you dated November 20, 2008, the alternate was separate from Stalco's bid price. Since no alternates were included in the IB for this project, the award was made by SUCF to Stalco as the lowest bidder based upon its unqualified bid of \$1,646,000.00. Therefore, Stalco's inclusion of an alternate with its bid had no effect on its bid or SUCF's award.

As for Stalco's substitution of its asbestos subcontractor, such substitution was necessitated in light of SUCF's rejection of the asbestos subcontractor initially identified by Stalco after SUCF's responsibility review. Such a scenario was specifically contemplated in the IB, and Stalco identified a replacement asbestos contractor in a timely manner in accordance with the procedure set forth in the IB.

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In light of the foregoing, this Office is satisfied that the procurement conducted by SUCF resulted in an award consistent with the IB to the lowest responsive and responsible vendor. As a result, we are satisfied that this award was proper and in the best interests of the State. Accordingly, this Office hereby denies your protest and is today approving the contract.

Sincerely,

A handwritten signature in cursive script that reads "Charlotte E. Breeyear". The signature is written in black ink and is positioned above the printed name and title.

Charlotte E. Breeyear
Director, Bureau of Contracts

CEB:mea