

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION
Haydon Burns Building
605 Suwannee Street
Tallahassee, Florida

FILED
08 JAN 14 PM 2:09
FLORIDA DEPARTMENT OF
TRANSPORTATION
TALLAHASSEE, FLORIDA

INFRASTRUCTURE CORPORATION
OF AMERICA,

Petitioner,

vs.

DOAH CASE NO.: 07-4410BID
DOT CASE NO.: 07-084

DEPARTMENT OF TRANSPORTATION,

Respondent,

and

DEANGELO BROTHERS, INC., d/b/a
DBI SERVICES CORPORATION,

Intervenor.

FINAL ORDER

On August 21, 2007, the Department of Transportation (Department) posted notice that it intended to award contract E1G23-RO, Ultra Asset Maintenance, for the performance of all routine maintenance activities on I-75, to DeAngelo Brothers, Inc., d/b/a DBI Services Corporation (DBI Services). Petitioner, Infrastructure Corporation of America (ICA), filed a notice of intent to protest on August 24, 2007, and a Formal Protest Petition on September 4, 2007.

The matter was referred to the Division of Administrative Hearings (DOAH) for assignment of an administrative law judge and a formal hearing. DBI Services filed a Petition to Intervene that was granted on September 27, 2007.

An administrative hearing was held in Tallahassee, Florida, on October 30, 2007, before T. Kent Wetherell, II, a duly appointed administrative law judge. Appearances on behalf of the parties were as follows:

For Petitioner: W. Robert Vezina, Esquire
 Eduardo Lombard, Esquire
 Vezina, Lawrence & Piscitelli, P.A.
 413 East Park Avenue
 Tallahassee, Florida 32301

For Respondent: C. Denise Johnson, Esquire
 Assistant General Counsel
 Department of Transportation
 605 Suwannee Street, M.S. 58
 Tallahassee, Florida 32399-0458

For Intervenor: Brian Newman, Esquire
 Cynthia Tunnickliff, Esquire
 Pennington, Moore, Wilkinson, Bell & Dunbar, P.A.
 215 South Monroe Street, 2nd Floor
 Tallahassee, Florida 32302

ICA presented the testimony of one witness, David Rader, and the deposition testimony of Jennifer Perry and Amy Burlarley-Hyland. DBI Services presented the testimony of Jennifer Perry and Amy Burlarley-Hyland. The parties offered Joint Exhibits 1a, 2 through 21, 24, 25 and 33 through 38, which were admitted into evidence. ICA offered Petitioner's Exhibits 1 and 2, which were admitted into evidence. DBI Services offered Intervenor's Exhibits 1 and 2, which were admitted into evidence. The transcript of the hearing was filed on November 13, 2007. The parties timely filed proposed recommended orders. Judge Wetherell issued his Recommended

Order on December 14, 2007. No exceptions were filed.

STATEMENT OF THE ISSUE

The issue presented was whether the proposed award of contract E1G23-RO, for Ultra Asset Maintenance, to DBI Services is contrary to the Department's governing statutes, rules, policies, or the specifications in the Request for Proposals.

FINDINGS OF FACT

1. After review of the record in its entirety, it is determined that the administrative law judge's Findings of Fact in paragraphs 1 through 84 are supported by competent, substantial evidence, and are adopted and incorporated as if fully set forth herein.

2. The Department has incurred \$1,264.00 in taxable costs for transcript and mailing costs and charges.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over the subject matter of and the parties to this proceeding pursuant to Chapters 120 and 337, Florida Statutes.

2. The Conclusions of Law in paragraphs 85 through 91 of the Recommended Order are fully supported in law and are adopted and incorporated as if fully set forth herein.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is

ORDERED that the Formal Protest Petition filed by Infrastructure Corporation of America, challenging the award of contract E1G23-RO, for Ultra Asset Maintenance on I-75, is hereby dismissed. It is further

ORDERED that the motion for costs by the Department of Transportation is granted. Infrastructure Corporation of America shall pay the sum of \$1,264.00 to the Department within 30 days of the date of this order or the amount shall be deducted from the bond posted by Infrastructure Corporation of America.

DONE AND ORDERED this 11th day of January, 2008.

(Per)



Stephanie C. Kopelousos
Secretary
Department of Transportation
Haydon Burns Building
605 Suwannee Street
Tallahassee, Florida 32399

FILED D.O.T. CLERK
2008 JAN 11 AM 9:09

NOTICE OF RIGHT TO APPEAL

THIS ORDER CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND RULES 9.110 AND 9.190, FLORIDA RULES OF APPELLATE PROCEDURE, BY FILING A NOTICE OF APPEAL CONFORMING TO THE REQUIREMENTS OF RULE 9.110(d), FLORIDA RULES OF APPELLATE PROCEDURE, BOTH WITH THE APPROPRIATE DISTRICT COURT OF APPEAL, ACCOMPANIED BY THE APPROPRIATE FILING FEE, AND WITH THE DEPARTMENT'S CLERK OF AGENCY PROCEEDINGS, HAYDON BURNS BUILDING, 605 SUWANNEE STREET, M.S. 58, TALLAHASSEE, FLORIDA 32399-0458, WITHIN THIRTY (30) DAYS OF RENDITION OF THIS ORDER.

Copies furnished to:

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Myers, James

From: Myers, James
Sent: Friday, January 11, 2008 9:48 AM
To: 'Claudia_Llado@doah.state.fl.us'
Cc: 'Webmaster1@doah.state.fl.us'; 'Susan_Brown@doah.state.fl.us'
Subject: DOAH Clerk -
Attachments: _DOT Case 07-084_F_O_.pdf

This is a PDF image file of the Final Order for DOAH Case 07-4410BID/DOT Case 07-084, which was filed today. I am also sending a copy in the mail. Attached to the five page Final Order is a copy of the Recommended Order along with a copy of the delegation of authority for a signature other than the Secretary.

NOTE: Administrative Law Judge is T. Kent Wetherell, II.

James C. Myers, Clerk of Agency Proceedings
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