

MINUTE ITEM

This Calendar Item No. 36  
was approved as Minute Item  
No. 36 by the State Lands  
Commission by a vote of 2  
to 0 at its 4/30/77  
meeting.

MINUTE ITEM

11/30/77  
RM

36. HAZARD REMOVAL BIDS; JENSEN AND REYNOLDS CONSTRUCTION COMPANY;  
FEDERAL EDA PROJECT NO. 07-51-26769; SACRAMENTO-SAN JOAQUIN RIVER  
DELTA; SACRAMENTO, SAN JOAQUIN, CONTRA COSTA, SOLANO AND YOLO  
COUNTIES; W 30010.

During consideration of Calendar Item 36 attached, Mr. Dwight E. Sanders, Chief, Planning and Environmental Coordination Unit, summarized this item. He pointed out that acceptance of the subject grant included a mandate to begin operations within the Delta 90 days from September 16--making the date the Commission must be underway to be December 15.

Mr. Steven C. Lindfeldt, Staff Counsel, advised that the unsuccessful bidders had raised a number of questions concerning the applicability of various Government Code sections, and the State Contracts Act concerning the requirements of the bid package and the bid opening. Mr. Lindfeldt set forth the legal issues raised. He explained that General Service's legal staff had advised the staff of the Commission, that this project was not subject to the State Contracts Act, and therefore, no prequalification was necessary. He also explained that the staff of the Commission had required that a license be in the possession of the bidder at the time of bid opening because of the critical timing of this project to meet the 90 day EDA grant requirement.

Mr. Sanders advised that the American Leadburning bid was rejected because 1) they did not possess the appropriate license at the time of bid opening; and 2) their bid was not accompanied by a bond of 10 percent of the contract amount, as required in the bid. Mr. Sanders further advised the Commission that the American Leadburning bid would not have been the low bid had it been accepted.

Mr. John A. Flores, Procurement Manager, California Office of Minority Business, appeared. Mr. Flores' main objection was the rejection of the American Leadburning bid because of its failure to provide the required license at the time of bid opening. He pointed out that EDA, the California Government Code, and the State Contract Act do not have a prequalification to have a license before the bid opening. He further pointed out the staff of the State Lands Commission's practice of requiring a license as a prequalification is unreasonable. He stated the staff of the Commission included additional specifications which were contradictory to EDA guidelines by extending itself beyond the language of the laws that apply to EDA guidelines, the State Contract Act, and the Government Code. Mr Flores contended that an adjustment should be made in terms of the licensing consideration. He also questioned the verification procedure used by the staff of the Commission concerning the 10 percent minority requirement of EDA grants.

A 4, 6, 8, 26, 10

S 3, 4, 7, 13

Mr. Robert Gonzales, Sr., owner of American Leadburning; Mr. Richard Bartee, Project Manager, for American Leadburning; and Alan Carey, owner of Carey Management Co.; appeared. These gentlemen contended that 1) with regard to the license, the bid package specifically stated no prequalifications were necessary; and 2) with regard to the bonding requirement, they submitted a deposit of 10 percent based on an hourly rate. However, as they have been bonded up to \$175,000 previously, they would have no problem with obtaining the necessary bonding.

In summary, Mr. Flores recommended the Commission request an extension of time from EDA and then reject the bids and rebid the project.

During the discussion because of the complexities in the State Model Contract, Acting Chairman Sid McCausland suggested that the language included therein be prepared in a format which is more specific and less ambiguous.

A lengthy discussion followed concerning the questions which were raised. At the conclusion of the testimony, and after the Commission had conferred with counsel, the Commission approved the resolution as presented in Calendar Item 36 by a vote of 2-0.

Attachment: Calendar Item 36. (1 page)

## HAZARD REMOVAL BIDS

The State Lands Commission received a grant from the Federal Economic Development Administration in September for the purposes of removing natural and man-made obstructions from the Sacramento-San Joaquin River Delta; Sacramento, San Joaquin, Contra Costa, Solano and Yolo Counties. Subsequently, the State Lands Division requested bids for the project from contractors properly licensed by the State Contractors Licensing Board. The bids were requested on October 24, 1977 and due on November 22, 1977.

Three bids were received for the project. A summary of these bids is as follows:

1. Jensen and Reynolds Construction Company - average cost, \$619 per hour.
2. Dutra Construction Company, Inc. - average cost \$676 per hour.
3. American Leadburning Company - no average cost given in bid package.

Staff examination of the bid packages and contact with the State Contractors Licensing Board revealed that one of the three bidders, American Leadburning, Inc., possessed only a Class C-61, Limited Speciality (Fiberglass and Plastic Fabrication, Leadburning and Water Weatherproofing) Contractor's License.

Since the project involves the pulling of pilings and removal of submerged vessels and other natural and man-made hazards, a Class C-61 License is not appropriate for performing this type of work.

IT IS RECOMMENDED THAT THE COMMISSION:

1. REJECT THE BID OF AMERICAN LEADBURNING, INC., AS NON-CONFORMING TO THE BID SPECIFICATIONS.
2. ACCEPT THE BID OF JENSEN AND REYNOLDS CONSTRUCTION COMPANY AS BEING THE LOWEST QUALIFIED BID.
3. AUTHORIZE THE EXECUTIVE OFFICER TO ENTER INTO A CONTRACT WITH JENSEN AND REYNOLDS CONSTRUCTION COMPANY, IN ACCORDANCE WITH THE ACCEPTED BID.