

Mr. Mike Herold
Ranger Construction Industries, Inc.
4210 Old Dixie Highway
Malabar, FL 32950

Mr. Antonio Rodriguez
KCCS
8529 South Park Circle, Ste. 190
Orlando, FL 32819

RE: RDRB Recommendation
SR 15 (US441) from East of Post Office Road to SR 15/500
FN 409173-1-52-01
Hearing November 8, 2004
Claim for Base Shortage

Dear Sirs:

The Contractor on the above referenced project requested a hearing regarding a shortage of base material resulting in additional time and costs incurred. Position papers were forwarded to the RDRB members and a hearing was held on November 8, 2004.

CONTRACTOR'S POSITION:

In summary, Ranger Construction Industries, Inc. (RCI) claims that due to base material shortage beyond its control on the referenced project, it has been impacted on the construction of the Type B Stabilization and the Optional Base Group 4. Both of these items are on the critical path for construction. Due to this area-wide shortage of materials, RCI is seeking additional time and compensation for the additional costs incurred in building the project.

The FDOT Standard Specifications state in Section 8-7.3.2, "The Department will consider the delays in delivery of materials or component materials that affect progress on a controlling item of work as a basis for granting a time extension if such delays are beyond the control of the contractor or supplier. Such delays may include an area-wide shortage, an industry-wide strike, or a natural disaster that affects all feasible sources of supply. In such cases, the Contractor shall furnish substantiating letters from a representative number of manufacturers of such materials and equipment clearly confirming that the delays in delivery were a result of an area-wide shortage, an industry-wide strike, etc."

RCI bid the project based on receiving material from a specific quarry in close proximity to the job, with a haul rate from that quarry that included dumping directly into the widening spreader. However, prior to starting the delivery, a letter was received from the supplier describing shortages due to demand/supply problems to the extent a new crusher had been installed, however the supplier cautioned that material must meet minimum FDOT specifications. A similar letter was received from another supplier in the area stating that the demands for materials have created delays throughout the

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industry in our area. Both letters were forwarded to Kisinger-Campo Construction Services (KCCS), the CEI on the project.

Because of this RCI was forced to obtain the material from a quarry with an additional haul distance of 66 miles, with the hauler dumping into a stockpile on the jobsite, requiring RCI the additional expense of re-handling the material from the stockpile to the widening spreader.

RCI had numerous discussions with KCCS and the FDOT regarding the shortage of base supply in the local area. Optional base groups were discussed. RCI maintains it everything possible to mitigate the additional costs and also keep KCCS and the Department apprised of the local base shortage that was beyond RCI's control or contemplated at the time of bid. RCI was advised to continue the project or face the risk of possible liquidated damages and poor grades on the CPPR. RCI then sought out the only supplier that could guarantee supply of the material even though the haul was increased by 66 miles.

Due to this area-wide materials shortage, RCI is seeking additional time and compensation for the additional haul cost, the cost of re-handling the material, adjustments to Categories 1, 4, and 6 of the CPPR, and the removal of liquidated damages.

DEPARTMENT'S POSITION:

In summary, KCCS presented the Departments position. Regarding the Specifications, Supplemental Specification 8-7.3 requires the contractor to prove an "area-wide shortage" with "substantiating letters from a representative number of manufacturers of such materials or equipment clearly confirming that the delays in delivery were the result of an area-wide shortage, industry-wide strike, etc". The Department does not feel that two letters from two suppliers substantiates an area-wide shortage.

KCCS and the Department contacted other contractors in the vicinity, and none reported problems in acquiring base rock material. The FDOT Material and Research Office also provided information showing that there were sufficient supplies of base rock material in other mines in Sumter, Glades, Polk, Okeechobee, Palm Beach and St. Lucie counties. On April 2, 2004, KCCS was informed that a quarry in Center Hill had over 300,000 tns of base material in their yard.

RCI did not attempt to use other materials that would fulfill the requirements for Optional Base Group 4, as allowed by Contract.

The Department views this issue as one RCI should have contemplated at the time of bid and therefore they are not eligible for additional time or monetary compensation. Ultimately, it is RCI's responsibility to provide one of the optional base materials under

the applicable pay item which in turn, provides full compensation for all the work covered in that section of the Contract.

BOARD FINDINGS:

RCI contracted with the Department to construct Optional Base Group 4 using the options listed in the Index 514. This includes responsibility for ensuring that the base material is delivered from area sources. Should RCI's primary source fail to produce, RCI is still responsible for employing secondary sources as needed to provide base rock in order to fulfill its contract.

Section 8-7.3.2 of the Contract Specifications provides that the Department will consider time extensions for an "area-wide shortage" of materials impacting a controlling item of work. The Board finds that the word "area" in this context must be defined as a relatively large expanse. To do otherwise would undermine the bidding/contracting process by relieving the contractor of his responsibility for providing material sources, thus exposing the Department to potential claims every time a contractor's primary source of material failed or faltered.

The case, as presented, centers on an increase in the distance to the material source, adding to the cost of hauling the material to the jobsite. In the Central Florida area, experience has shown that long hauls of base material are not uncommon.

BOARD RECOMMENDATION:

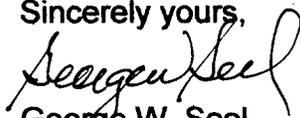
The Board finds that there was sufficient base rock (coquina and limerock) available within the project "area". The Board recommends there is NO ENTITLEMENT under Specification Section 8-7.3.2. Any increase over bid cost experienced by RCI is their responsibility to ensure that material is delivered to the project.

The Board sincerely appreciates the cooperation of all parties and the information presented for its review in making this recommendation.

Please remember that a response to the RDRB and the other party of your acceptance or rejection of this recommendation is required within 15 days. Failure to respond constitutes your acceptance of this recommendation.

SIGNED FOR AND WITH THE CONCURRENCE OF ALL MEMBERS

Sincerely yours,



George W. Seel
Chairman

Cc: Mike Bone, Jimmy Lairscey