



April 06, 2015

VIA FACSIMILE (916) 227-6282 AND U.S. MAIL

John C. McMillan
Deputy Division Chief
Department of Transportation
Division of Engineering Services
Office Engineer, MS 43
1727 30th Street
P.O. Box 168041
Sacramento, CA 95816-8041

Re: F.D. Thomas, Inc. Bid Protest of Liberty Maintenance, Inc.
Contract No. 03-3F3404
Construction On State Highway In Sacramento Near Isleton At Three Mile Slough Bridge
In District 03 On Route 160
03-Sac-160-L7.0
Project ID 0312000219
Federal-Aid Project ACBHNH-P160 (024) E

Dear Mr. McMillan:

The apparent low bidder on the project is Liberty Maintenance, Inc. DBA Ohio Liberty Maintenance, Inc. (Liberty). F.D. Thomas, Inc. (F.D. Thomas) is the apparent second-low bidder. F.D. Thomas hereby protests the award of the contract to Liberty on the grounds that Liberty's bid is non-responsive and Liberty is not a responsible bidder for the following reasons:

- Liberty's bid violates California's Subcontractor Listing Laws.
- Liberty's bid does not comply with CalTrans' Disadvantaged Business Enterprise (DBE) requirements.
- Liberty's bid requires Liberty to self-perform work for which it is not qualified under California Contractor License Laws (Liberty is a "C-33"- Specialty Painting Contractor intending to perform Adjustment and Lift Span Balancing, which should be done by an "A" Licensed General Engineering Contractor).

Liberty's Bid Violates California's Subcontractor Listing Laws

Public Contract Code §4104, which is part of the Subletting and Subcontracting Fair Practices Act, provides that each bidder on a public work shall "list" the name and place of business of each subcontractor that will perform work in excess of one-half of one percent of the contractor's total bid, or \$10,000, whichever is greater. This requirement is reiterated in section 2-1.33C of Caltrans' Standard Specifications 2010, CalTrans' Notice to Bidders Special Provision 2-1.10 and Caltrans' Subcontractor List Form DES-OE-0102.2B (rev 5/2014). Liberty's bid violates these laws, specifications and bid requirements.



Specifically, Liberty recorded *Tri-Valley Striping, (CA, Contractor license # 850528, which is not included in Liberty submission)* only on the DBE commitment form submittal for \$54,289.80 as performing bid items 7,8,16,20,21,27,28,29,30 and partial item 32. By doing so Liberty has shown intent to use this contractor without properly listing the subcontractor according to Public Contract Code §4104. Simply put, Liberty's CalTrans Form DES-OE-0102.2B (rev 5/2014) is incorrect and not complete.

Similarly, Liberty recorded *Construction Area Signs, (CA, Contractor license # 442645, which is not included in Liberty submission)* only on the DBE commitment form submittal for \$21,880.00 as performing bid items 4, 6, and partial item 5. By doing so Liberty has shown intent to use this subcontractor without properly listing the subcontractor according to Public Contract Code §4104. Thus, again Liberty's CalTrans Form DES-OE-0102.2B (rev 5/2014) is incorrect and not complete.

Liberty's failure to correctly list all of its subcontractors is not a minor irregularity that can or should be waived. Under California law, a minor irregularity can be waived only "if the variance cannot have affected the amount of the bid or given the bidder an advantage or benefit not allowed other bidders ..." *Konica Business Machines U.S.A., Inc. v. Regents of University of California*, 206 Cal.App.3d 449, 454 (1966). Public Contract Code §5103 allows a contractor to withdraw its bid if it made an error "in filling out the bid," which includes typographical or arithmetical errors. *MCM Constr., Inc. v. City & County of San Francisco*, 66 Cal.App.4th 359 (1998). By failing to properly list these two subcontractors, Liberty could seek to withdraw its bid without forfeiting its bond pursuant to Public Contract Code §5103 – a clear and unfair advantage that requires the bid to be deemed non-responsive. See *Valley Crest Landscape v. City of Davis*, 41 Cal.App.4th 1432, 1442 (1996).

Liberty Failed To Comply With CalTrans' DBE Requirements

The 2010 Standard Specifications and Special Provisions for this project contain multiple DBE-related requirements. First, the "Notice to Bidders" establishes a DBE goal of 4% for this project. Second, the DBE Commitment Form for this project must be properly completed, which includes (1) tallying the total number and value of DBE and non-DBE subcontracts and (2) ensuring "the names of the first tier DBE subcontractors and items of work [are] consistent with the subcontractor list (pub contact code § 4100 et seq.)." Liberty's bid does not meet these DBE requirements for the following reasons:

- Liberty's DBE Commitment Form does not list the "Total Number of all Subcontracts (DBE & Non-DBE)" or the "Total Value of all Subcontracts (DBE & Non-DBE)." Instead, Liberty listed only DBE subcontracts totaling 377,446.56. Liberty omitted all non-DBE subcontracts that are listed on its CalTrans Form DES-OE-0102.2B (rev 5/2014), which brings a serious level of confusion to this determination (see attached documents).
- Although identified on the DBE Commitment Form, Liberty failed to list Tri-Valley Striping, license # 850528, on its form subcontractor list (CalTrans Form DES-OE-0102.2B) (rev 5/2014). Under Public Contract Code §4104, because Tri-Valley is not listed, it cannot perform work on this project, lowering the amount of DBE participation by \$54,289.80. Please note that Liberty's DBE Commitment Form states that Tri-Valley will perform bid item



Nos. 7,8,16,20,21,27,28, 29,30 and partial item 32. By not listing this subcontractor, Liberty must self-perform these items, pursuant to Public Contract Code §4106.

- Although identified on the DBE Commitment Form, Liberty failed to list Construction Area Signs, license # 442645, on its form subcontractor list (CalTrans Form DES-OE-0102.2B) (rev 5/2014). Under Public Contract Code §4104, because Construction Area Signs is not listed, it cannot perform work on this project, lowering the amount of DBE participation by \$21,880.00. Notably, Liberty's DBE Commitment Form states that Construction Area Signs will perform bid Item Nos. 4, 6, and partial item 5. By not listing this subcontractor, Liberty must self-perform these items, pursuant to Public Contract Code §4106.
- Liberty's DBE Commitment Form inaccurately states that Summit West Environmental, Inc. will perform bid Item Nos. 18 and 19 for the amount of \$79,000. The quote provided by Summit West Environmental reveals a qualification which states that "Summit West will be teaming with Sycamore Environmental Consultants, Inc. to provide field work." Likewise, an email that Liberty included in the DBE submission package from Chezzie Brungraber representing Summit West, is the statement, "I have also cc'd Sycamore Environmental, Inc. as they will be helping me with this work should it be awarded." (see attached documents)

According to the U.S. Government Publishing Office website link from the Cal Trans Website⁽¹⁾, Title 49, Subtitle A → Part 26, Subpart C, section §26.55 states that "When a DBE participates in a contract, you count only the value of the work actually performed by the DBE toward DBE goals" and "When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE". In other words, work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals. In light of Summit West's quotation and email correspondence clarifying that it will not be performing the entire scope of the work, the DBE participation should not be counted toward Liberty's DBE goal as Sycamore Environmental Consultants, Inc. is not listed as a certified DBE business.

In total, Liberty has overstated its DBE Commitment by \$155,169.80 (\$54,289.80 + \$21,880.00 + \$79,000.00). When this overstatement is subtracted from Liberty's DBE commitment, Liberty is left with DBE Commitment percentage of only 2.5%, which is well below the 4% required percentage for this project. Accordingly, this is a major deviation from the State's DBE requirements that renders Liberty's bid non-responsive.

Moreover, even if Liberty's non-compliance with the DBE requirements could be considered a minor irregularity, the irregularity cannot be waived because it gave Liberty an advantage over the other bidders. See *Konica Business Machines U.S.A., Inc.*, 206 Cal.App.3d at 454. For example, Liberty saved precious time in formulating its bid by not identifying all subcontracts and the total value of its subcontracts in the DBE Commitment Form and also by not including all DBE subcontractors in its form subcontractor list (i.e., CalTrans Form DES-OE-0102.2B). Time is obviously an extremely precious commodity for publicly bid projects because contractors have a small window of time to calculate their bids, complete the bid documents and submit everything to the public entity within a set deadline. Here, while contractors like F.D. Thomas were forced to spend time ensuring that the DBE forms form subcontractor lists were properly completed before submitting their bids, Liberty was able to use that time on more substantive matters like re-



evaluating estimates, analyzing last-minute supplier/subcontractor bids, taking more time to assess the Project and recalculating its bid.

Liberty Is Not A Responsible Bidder Because Liberty Is Not Qualified To Perform Bid Item #26 (Special Provisions 78-2 Adjust Lift Span Balance)

Public Contract Code §10164 requires bidders to be properly licensed in accordance with the laws of this state at the time the contract is awarded. Indeed, that section further provides:

The contract shall not be awarded unless the state agency has verified that the contractor has a valid license in the appropriate classification for the work performed. Any bidder or contractor not so licensed shall be subject to all legal penalties imposed by law, including, but not limited to, any appropriate disciplinary action by the Contractors State License Board.

Liberty has included in this bid self-performance of work which it is not qualified to perform under California's Contractor License Laws. Liberty is classified as a "C-33" Specialty Painting Contractor. Self-Performing Bid Item # 26, (Adjust Lift Span Balance) is work that is outside the qualification of a C-33 Painting Contractor and is definitely not incidental to painting nor commonly performed by a painter. Such work requires specialized engineering knowledge and skill and, therefore, requires a Class "A" license. See Cal. Bus. & Prof. Code §7056.

According to a contractor license search, Liberty is classified with a Painting and Decorating C-33 Specialty License (see attached documents). This qualifies Liberty to perform the following work according to the California Contractors State License Board website:¹

A painting and decorating contractor prepares by scraping, sandblasting or other means and applies any of the following: paints, papers, textures, fabrics, pigments, oils, turpentines, japans, driers, thinners, varnishes, shellacs, stains, fillers, waxes, adhesives, water and any other vehicles, mediums and materials which adhere by evaporation and may be mixed, used and applied to the surfaces of structures and the appurtenances thereto for purposes of decorating, protecting, fireproofing and waterproofing.

Liberty has listed no qualified subcontractor to perform this work, and the specialty license which they hold is not adequate. It would appear that Liberty is preparing to either self-perform work for which they are not licensed or, alternatively, hire a qualified subcontractor who has not been properly listed per the Cal Trans Form DES-OE-0102.2B (rev 5/2014). Accordingly, Liberty is not a responsible bidder and its bid should be rejected accordingly. See *MCM Constr., Inc. v. City and County of San Francisco*, 66 Cal.App.4th 359, 368 (1998) (bidder is not responsible if it cannot perform the contract as promised.)

See http://cslb.ca.gov/About_Us/Library/Licensing_Classifications/C-33_-_Painting_And_Decorating.aspx.



Conclusion

Since Liberty's bid is clearly non-responsive – on multiple, independent grounds – and Liberty is not a responsible bidder, F.D. Thomas respectfully requests that Caltrans reject Liberty's bid, and award the contract to F.D. Thomas as the lowest responsible, responsive bidder.

If you have any questions, please contact me as I would be happy to respond or clarify further.

Respectfully,

Grover Lee
F.D. Thomas VP/Division Manager

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C: 541.840.6276
F: 541.664.1105
E: grover@fdthomas.com

References:

1. http://www.ecfr.gov/cgi-bin/text-idx?type=simple;c=ecfr;cc=ecfr;sid=ef39173e4148465ac024cbe5909b418d;idno=49;region=DIV1;q1=26.61;rqn=div5;view=text;node=49%3A1.0.1.1.20#se49.1.26_155
2. <http://www.cslb.ca.gov/Resources/GuidesAndPublications/DescriptionOfClassifications.pdf>

brick that resembles full brick for facing; paving; and clear waterproofing, cleaning and caulking incidental to masonry construction. (832.29 CCR)

C-31 Construction Zone Traffic Control

A construction zone traffic control contractor prepares or removes lane closures, flagging, or traffic diversions, utilizing portable devices, such as cones, delineators, barricades, sign stands, flashing beacons, flashing arrow trailers, and changeable message signs, on roadways, including, but not limited to, public streets, highways, or any public conveyance. (832.31 CCR)

C-32 Parking and Highway Improvement

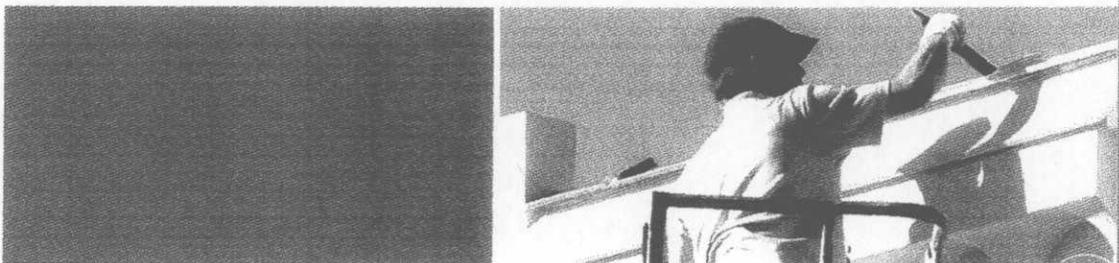
A parking and highway improvement contractor applies and installs protective coatings, vehicle stops, guard rails and mechanical devices, directional lines, buttons, markers, signs and arrows on the horizontal surface of any game court, parking facility, airport, highway or roadway constructed of concrete, asphalt or similar material. This classification includes the surface preparatory work necessary for the application of protective coatings but does not include the re-paving of these surfaces. (832.32 CCR)

C-33 Painting and Decorating

A painting and decorating contractor prepares by scraping, sandblasting or other means and applies any of the following: paints, papers, textures, fabrics, pigments, oils, turpentine, japans, driers, thinners, varnishes, shellacs, stains, fillers, waxes, adhesives, water and any other vehicles, mediums and materials which adhere by evaporation and may be mixed, used and applied to the surfaces of structures and the appurtenances thereto for purposes of decorating, protecting, fireproofing and waterproofing. (832.33 CCR)

C-34 Pipeline

A pipeline contractor fabricates and installs pipelines for the conveyance of fluids, such as water, gas, or petroleum, or for the containment or protection of any other material, including the application of protective coatings or systems and the trenching, boring, shoring, backfilling, compacting, paving and surfacing necessary to complete the installation of such pipelines. (832.34 CCR)



4/7/2015

eCFR — Code of Federal Regulations

request to terminate and/or substitute, and the reason for the request.

(5) The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise you and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why you should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), you may provide a response period shorter than five days.

(6) In addition to post-award terminations, the provisions of this section apply to preaward deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

(g) When a DBE subcontractor is terminated as provided in paragraph (f) of this section, or fails to complete its work on the contract for any reason, you must require the prime contractor to make good faith efforts to find another DBE subcontractor to substitute for the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal you established for the procurement. The good faith efforts shall be documented by the contractor. If the recipient requests documentation under this provision, the contractor shall submit the documentation within 7 days, which may be extended for an additional 7 days if necessary at the request of the contractor, and the recipient shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

(h) You must include in each prime contract the contract clause required by §26.13(b) stating that failure by the contractor to carry out the requirements of this part is a material breach of the contract and may result in the termination of the contract or such other remedies set forth in that section you deem appropriate if the prime contractor fails to comply with the requirements of this section.

(i) You must apply the requirements of this section to DBE bidders/offerors for prime contracts. In determining whether a DBE bidder/offeror for a prime contract has met a contract goal, you count the work the DBE has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors and DBE suppliers.

(j) You must require the contractor awarded the contract to make available upon request a copy of all DBE subcontracts. The subcontractor shall ensure that all subcontracts or an agreement with DBEs to supply labor or materials require that the subcontract and all lower tier subcontractors be performed in accordance with this part's provisions.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5098, Jan. 28, 2011; 79 FR 59595, Oct. 2, 2014]

↑ Back to Top

§26.55 How is DBE participation counted toward goals?

(a) When a DBE participates in a contract, you count only the value of the work actually performed by the DBE toward DBE goals.

(1) Count the entire amount of that portion of a construction contract (or other contract not covered by paragraph (a)(2) of this section) that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).

(2) Count the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, toward DBE goals, provided you determine the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.

(3) When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

4/7/2015

eCFR — Code of Federal Regulations

(b) When a DBE performs as a participant in a joint venture, count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.

(c) Count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract.

(1) A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, you must evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

(2) A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, you must examine similar transactions, particularly those in which DBEs do not participate.

(3) If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, you must presume that it is not performing a commercially useful function.

(4) When a DBE is presumed not to be performing a commercially useful function as provided in paragraph (c)(3) of this section, the DBE may present evidence to rebut this presumption. You may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

(5) Your decisions on commercially useful function matters are subject to review by the concerned operating administration, but are not administratively appealable to DOT.

(d) Use the following factors in determining whether a DBE trucking company is performing a commercially useful function:

(1) The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.

(2) The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

(3) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.

(4) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.

(5) The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement. If a recipient chooses this approach, it must obtain written consent from the appropriate DOT operating administration.

4/7/2015

eCFR — Code of Federal Regulations

Example to paragraph (d)(5): DBE Firm X uses two of its own trucks on a contract. It leases two trucks from DBE Firm Y and six trucks equipped with drivers from non-DBE Firm Z. DBE credit would be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. DBE credit could be awarded only for the fees or commissions pertaining to the remaining trucks Firm X receives as a result of the lease with Firm Z.

(6) The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.

Example to paragraph (d)(6): DBE Firm X uses two of its own trucks on a contract. It leases two additional trucks from non-DBE Firm Z. Firm X uses its own employees to drive the trucks leased from Firm Z. DBE credit would be awarded for the total value of the transportation services provided by all four trucks.

(7) For purposes of this paragraph (d), a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

(e) Count expenditures with DBEs for materials or supplies toward DBE goals as provided in the following:

(1)(i) If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies toward DBE goals.

(ii) For purposes of this paragraph (e)(1), a manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.

(2)(i) If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies toward DBE goals.

(ii) For purposes of this section, a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

(A) To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

(B) A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided in this paragraph (e)(2)(ii) if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.

(C) Packers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph (e)(2).

(3) With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward DBE goals, provided you determine the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward DBE goals, however.

(4) You must determine the amount of credit awarded to a firm for the provisions of materials and supplies (e.g., whether a firm is acting as a regular dealer or a transaction expeditor) on a contract-by-contract basis.

4/7/2015

eCFR — Code of Federal Regulations

(f) If a firm is not currently certified as a DBE in accordance with the standards of subpart D of this part at the time of the execution of the contract, do not count the firm's participation toward any DBE goals, except as provided for in §26.87(i).

(g) Do not count the dollar value of work performed under a contract with a firm after it has ceased to be certified toward your overall goal.

(h) Do not count the participation of a DBE subcontractor toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 68 FR 35554, June 16, 2003; 79 FR 59595, Oct. 2, 2014]

[↑ Back to Top](#)

Subpart D—Certification Standards

[↑ Back to Top](#)

§26.61 How are burdens of proof allocated in the certification process?

(a) In determining whether to certify a firm as eligible to participate as a DBE, you must apply the standards of this subpart.

(b) The firm seeking certification has the burden of demonstrating to you, by a preponderance of the evidence, that it meets the requirements of this subpart concerning group membership or individual disadvantage, business size, ownership, and control.

(c) You must rebuttably presume that members of the designated groups identified in §26.67(a) are socially and economically disadvantaged. This means they do not have the burden of proving to you that they are socially and economically disadvantaged. In order to obtain the benefit of the rebuttable presumption, individuals must submit a signed, notarized statement that they are a member of one of the groups in §26.67(a). Applicants do have the obligation to provide you information concerning their economic disadvantage (see §26.67).

(d) Individuals who are not presumed to be socially and economically disadvantaged, and individuals concerning whom the presumption of disadvantage has been rebutted, have the burden of proving to you, by a preponderance of the evidence, that they are socially and economically disadvantaged. (See Appendix E of this part.)

(e) You must make determinations concerning whether individuals and firms have met their burden of demonstrating group membership, ownership, control, and social and economic disadvantage (where disadvantage must be demonstrated on an individual basis) by considering all the facts in the record, viewed as a whole.

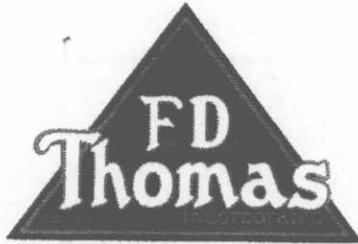
[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35554, June 16, 2003]

[↑ Back to Top](#)

§26.63 What rules govern group membership determinations?

(a)(1) If, after reviewing the signed notarized statement of membership in a presumptively disadvantaged group (see §26.61(c)), you have a well founded reason to question the individual's claim of membership in that group, you must require the individual to present additional evidence that he or she is a member of the group.

(2) You must provide the individual a written explanation of your reasons for questioning his or her group membership and a written request for additional evidence as outlined in paragraph (b) of this section.



COATING & SPECIALTY CONTRACTOR
217 Bateman Drive Central Point, OR 97502
PO Box 4663 Medford, OR 97501
(541) 664-3010 FAX (541) 664-1105

Fax

To: Caltrans Office of the Engineer **From:** Grover Lee

Fax: 916-227-6282 **Pages:** 11 including cover sheet

Phone: **Date:** 4/6/2015

Re: Contract # 03-3F3404 **CC:**

Email: **Attn:** John C. McMillan

Urgent **For Review** **Please Comment** **Please Reply**

Please see attached bid protest.

Please call me if you have any questions

Grover Lee
F.D. Thomas, Inc.
(541) 664-3010 Office