

February 7, 2012

John McMillan
Loren Newell
Office Engineer, DOT
1727 30th Street, MS 43
Sacramento, CA 95816

State of California Department of Transportation

District 06

Re: Bid Protest for Contract 06-0N2304

Legg Inc. would like to file a formal bid protest against the award of Contract No. 06-0N3204.

Bowman Asphalt's bid is materially nonresponsive and should be rejected. This is due to the fact they listed subcontractors on their Certified Small Business Listing for the non-Small Business Preference, and did not list them on the Sub Contractor list at time of bid and or within the allotted time frame in submitting the documentation.

The issue is that in not listing the sub contractors at time of bid gives the contractor a competitive advantage. Per the Subcontractor listing requirements a bidder must identify each subcontractor performing work in an amount in excess of ½ of 1 percent of the total bid or \$10,000 whichever is greater. (Pub Cont Cod 4100 et seq.)

Bowman Asphalt didn't list on the SubContractor list, Dependable Petroleum Products, Inc. for bid item #15 at time of bid, but is now trying to use them for the Certified Small Business Listing for the Non-Small Business Preference.

The issue here is that there portion of work is greater than \$10,000 and they are performing work on the project and should have been listed as a SubContractor at time of bid. Bowman Asphalt didn't do this and thus led to them gaining a competitive advantage.

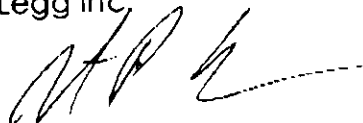
The requirement to designate the portion of work to be performed is mandated by statute. Accordingly, public officials do not have the discretion to waive discrepancies in information that is required by statute to be included in subcontractor lists, such as the portion of work to be performed by each subcontractor. See Volley Crest Landscape, Inc. Davis 41 CA 4th 1432 (1996).

Based on this Bowman Asphalt's bid should be deemed non-responsive and the project should be awarded to the next lowest responsive bidder, Legg Inc.

Thank you very much for your time and please let me know if you need anything else. My direct line is 925-605-4515.

Sincerely,

Legg Inc.



Robert P. Legg
President

2551 2nd Street
LIVERMORE, CA 94550
Phone: 925-605-4500
Fax: 925-805-4510



Fax

To: John McMillan/Loren Newell **From:** Bob Legg

Company: CAL Trans Office Engineer **Date:** February 7, 2012

Fax: 916-227-6282 **Pages:** 3

Re: Contract No. 06-0N2304 **CC:**

FAX

Gentlemen-

Please see the attached Formal Bid Protest Letter for Contract 06-0N2304

Thank you.

Any questions please contact 925-605-4515.

Sincerely,
Legg, Inc

Robert P. Legg
President

EMAIL: blegg@legginc.com