

**DEPARTMENT OF TRANSPORTATION**  
DIVISION OF ENGINEERING SERVICES  
OFFICE ENGINEER  
P.O. BOX 168041, MS-43  
SACRAMENTO, CA 95816-8041  
PHONE (916) 227-6299  
FAX (916) 227-6282  
TTY 711  
www.dot.ca.gov



*Serious drought.  
Help save water!*

December 22, 2014

Facsimile: (951) 657-1993

Lucio S. Collado, Chief Operations Officer  
Ybanag Realty and Development Corporation  
dba D'Ybanag Construction Co.  
4293 N. Webster Avenue  
Perris, CA 92571

Dear Mr. Collado:

The Department of Transportation (Caltrans) received letters dated November 20 and 26, 2014 and December 10, 2014, from Ybanag Realty Development Corporation dba D'Ybanag Construction Co. (D'Ybanag) protesting the bid results and findings for Contracts 07-274804 and 08-0P8204.

D'Ybanag submitted a bid for Contract 07-274804 on October 30, 2014. The bid for this contract was found nonresponsive for its failure to submit written confirmation of its Disadvantaged Business Enterprise (DBE) participation. In addition, though not called out in the original evaluation of this bid, D'Ybanag did not comply with the Revised Standard Specifications, Section 2-1.34, BIDDER'S SECURITY, which states in part:

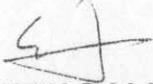
*Submit your bid with of the following forms of bidder's security equal to at least 10 percent...Bidder's bond signed by a surety insurer who is licensed in California.  
If using a bidder's bond, you may use the form in the Bid book. If you do not use the form in the Bid book, use a form containing the same information.*

Caltrans was unable to verify that the bonding agent/agency is licensed in California

As this protest pertains to contract 08-0P8204, as mentioned in the above statement, D'Ybanag submitted this same bidder's bond and as such, its bid was found irregular.

As you are no longer eligible for award of either project, Caltrans returns both bonds to D'Ybanag.

If you have any questions, please contact Mulissa Smith, Contract Awards Branch Chief, at (916) 227-6228.

  
JOHN C. McMILLAN  
Deputy Division Chief  
Office Engineer  
Division of Engineering Services

**YBANAG REALTY & DEVELOPMENT CORPORATION**  
dba D'YBANAG CONSTRUCTION COMPANY

November 20, 2014

Mr. John C. McMillan, Deputy Division Chief  
Office Engineer, Division of Engineering Services  
State of California Department of Transportation  
P.O. Box 168041, MS-43  
Sacramento, California 95816-8041

Re: Project No. 07-274804, 07-LA-18-0.2, B.O. 10/30/2014  
In response to DBE Commitment and Bid Protest

Dear Mr. McMillan,

This letter is in response to your letter dated November 20, 2014, in regards to supplemental submittal of DBE Commitment package.

D'Ybanag Construction Company(DYCC) submitted the DBE Commitment on October 30, 2014 with our Electronic Bid Proposal. DYCC met its DBE Goal of 18%(5% is required). As we are new to the electronic bidding process, we honestly intended not to swamp the Office Engineer of duplicated paperwork, unless specifically requested by the agency. The summary of our DBE Commitment with the DBE Subcontract proposals are hereby attached.

The Public Contract Code always provide the Award of Contract to the Lowest Responsible Bidder. Minor mis-interpretation by the Bidder to the Special Provisions are considered "minor irregularity" in the bidding process. We are willing to comply whatever it takes to complete your administrative process. DYCC request your leniency so we will be able to comply with the State and Federal Requirements of this Contract.

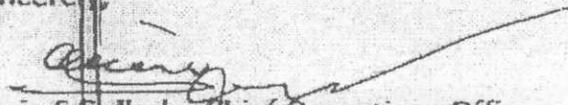
We also would like to address the issue of SSPC-QP Certified Subcontractor raised by MCM Construction. DYCC planned to do the majority of the work on Item 42, Column Casing. RBJ Steel Fabricating is supplying the material to us (see the attached Quotation, with Techno West, Inc as the Shop Application of Protective

Coatings, SSPC-QP 3). Public Contract Code again provides that unless otherwise a Bid Item is listed to be done by a Subcontractor, the Prime Contractor has to do the work with its own forces. Our Staff and Field Personnel have 100-Year combined knowledge and experience to do the work, and we are committed to work with the Department of Transportation to complete this successful project.

DYCC's bid is lower by \$195,402.00 from the protesting bidder-MCM Construction and lower by \$116,446.00 from the Engineer's Estimate. It is in the best interest of the Awarding Agency, being the Trustee of State and Federal Funds to award the contract to the legitimate Low Bidder D'Ybanag Construction Company and its listed Subcontractors.

Should you need more information and time for us to comply with the needed evaluation and completion of administrative requirements, please extend the award period as deem necessary.

Sincerely,

  
Lucio S Collado, Chief Operations Officer  
D'YBANAG CONSTRUCTION COMPANY

Attachments: DBE Commitment w/ DBE Subcontractors  
RBI Steel Fabricating w/ SSPC-QP 3

cc: Atty. MOREL CALLUENG, Corporate Counsel  
File

Seaberg Jr, Earl R@DOT

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**From:** gideon@dybanagconstruction.com  
**Sent:** Wednesday, November 26, 2014 9:54 AM  
**To:** Seaberg Jr, Earl R@DOT  
**Subject:** Contract Award of Project # 07-274804, Replace Bridge Deck, Bid Opening: 10-30-2014  
**Attachments:** 20141120\_Letter to OE\_CADOT 1a.pdf

Hi Earl,

I work with you on few Bridge Site Data Submittals when I was in Division of Design, District 08, under Patti Romo, and also sat down with you on high profile project meetings on the I-215 Bridges. I now retired in Caltrans and joined a construction company.

We are the low-bidder on Project 07-274804, Replace Bridge Deck, Bid Opening date: 10-30-2014. We also met our DBE Goal at the time of bid-submittal, but for some reason, we were not able to submit copies of the DBE quotes on the 4<sup>th</sup> business day because we are new and just gotten our Vendor ID. In circumstances such as this, the Office Engineer has the authority to waive this minor irregularity in the bidding process. We already complied with the DBE Commitment requirements as of this date.

MCM Construction (2<sup>nd</sup> Low Bidder) filed a frivolous Bid Protest for the: 1) above DBE Submittal and 2) SSPC-QP1 Requirement on Item 54 Column Casing. No Painting Subcontractor submitted a quote for field painting at the time of the bid, so this will work will be done with our own forces with SSPC-QP1 qualifications. Such certificates will be submitted at the time of submittals as required in the Special Provisions. We felt that MCM Construction is attempting to steal our Low-Bidder position by gaining unfair advantage in the Procurement Process.

We just want to ask, that your staff treat us fairly in the evaluation process. Any assistance you can help us seeking fair treatment as a small business company(SBE#41228-Pending) is very much appreciated.

Sincerely and regards,

Gideon Agra, P.E.  
Project Manager  
D'YBANAG CONSTRUCTION COMPANY  
951 657 7144 Tel  
951 657 1993 Fax  
[www.dybanagconstruction.com](http://www.dybanagconstruction.com)

Attachment:



**YBANAG REALTY & DEVELOPMENT CORPORATION**  
dba D'YBANAG CONSTRUCTION COMPANY

December 10, 2014

Mr. John C McMillan, Deputy Division Chief  
Office Engineer, Division of Engineering Services  
State of California Department of Transportation  
P.O. Box 168041, MS-43  
Sacramento, California 95816-8041

Re: Project No. 07-274804, 07-LA-18-0.2, Llano, California  
Bid Opening Date: 10/30/2014  
Bid Protest 3

Dear Mr. McMillan,

Reference is made to your letter dated December 9, 2014 regarding the State and Federal compliance of our bid submitted on 10-30-2014 for Project #07-274804.

We are aware of the Department of Transportation's sensitive office of maintaining to ensure that Public Funds are well spent. Your finding to our bid non-responsive is hereby challenged as we all met the DBE Goal at the time of the Bid. We also provided copies of the DBE quotes right away after your notice that the sub-quotes are required.

D'Ybanag Construction Company (DYCC) submitted the DBE Commitment with the Electronic Bid on October 30, 2014; meeting the DBE Goal of 18% (5% is required) and meeting the Revised Standard Specifications Section 2-1.33. The Public Contract Code §2000-2004 always provide the Administrative Agency the award of Contract to the Lowest Responsible Bidder. For the awarding body to act in "Good Faith", it must provide the low-bidder an entitlement to a hearing by the Awarding Agency, Government Services Administration, and Federal Highway Administration as holders of the Highway Trust Funds.

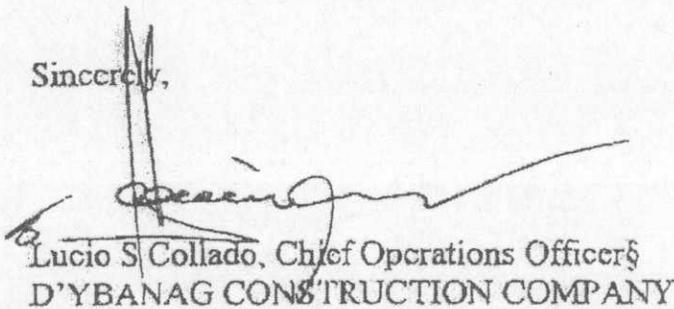
DYCC's bid is lower by \$195,402.00 (-9.44%) from the second bidder and lower by \$116,446.00 (-5.85%) from the Engineer's Estimate. It is in the best interest of the Public Trust Funds to award the contract to the legitimate Low-Bidder D'Ybanag Construction Company and its listed DBE Subcontractors. The Public

Contract Code (PCC) prohibits the gifting of Public Funds to favorite Contractors, thus results in displacing Low-Bidder listed DBE Subcontractors. In case of dispute between compliance with the Special Provisions and Public Contract Code, the Public Contract Code always prevail. An irregularity in the Special Provisions is a "waivable defect" authorized to be cured by the Agency, but the latter, PCC needs a congressional approval to change the law or congressional approval to waive the provisions of the Code.

As we are moving to the clean monetary system, our position as a Low-Bidder is hereby re-stated and will seek a "Writ of Mandate" to review the contract. A Common Law Grand Jury is hereby invoked in accordance with Article 7 of the 1776 Constitution wherein a monetary dispute of over \$20 must be decided by a jury of our peers.

Please extend the award period as deem necessary to resolve this matter.

Sincerely,



Lucio S. Collado, Chief Operations Officer  
D'YBANAG CONSTRUCTION COMPANY

cc: Atty. MOREL CALLUENG, Corporate Counsel  
File

cc: Department of General Services  
Federal Highway Administration

**\*\* Transmit Conf. Report \*\***

P. 1  
CALTRANS CONTR AWARDS Fax 916-227-6282

Dec 22 2014 03:33pm

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
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STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

**DEPARTMENT OF TRANSPORTATION**

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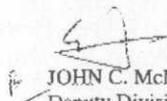
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