

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER, MS 43

1727 30th STREET

P. O. BOX 168041

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6280

FAX (916) 227-6282

TTY 711

*Flex your power!
Be energy efficient!*

April 29, 2013

Facsimile: (408) 573-8364

Frank Fonseca, Vice President
Fonseca/McElroy Grinding Company, Inc.
336 E Gish Road
San Jose, CA 95112

10-0X8504
10-Mer-59-R0.2/7.9
B.O. 03/19/2013

Dear Mr. Fonseca:

The Department of Transportation (Caltrans) received the attached letter dated April 25, 2013 from Fonseca/McElroy Grinding Company, Inc. (Fonseca/McElroy) protesting a nonresponsive finding. Fonseca/McElroy's protest disputes the disallowance of Sam's Equipment & Supplies (Sam's) DVBE participation. Sam's was disallowed because hot mix asphalt is not an allowable supply item that can be provided by Sam's and they do not have the ability to provide management, supervision or control of the transportation of the materials, which limits their ability to perform a Commercially Useful Function.

Caltrans has not changed its position concerning the finding of your bid being materially unbalanced and nonresponsive and will proceed to award this contract to the lowest responsible bidder, provided that all requirements are met.

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

Sincerely,

A handwritten signature in black ink, appearing to read "John C. McMILLAN", written over a horizontal line.

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

Attachments

Received

Apr 25 2013 03:50pm

APR-25-2013 14:52 From:DISP/EST

408 573 7152

To:916 227 6282

P.2/5

Bay Area
338 E. GISH RD.
SAN JOSE, CA 95112
PH: 408.573.9364
FX: 408.573.8364

FONSECA McELROY GRINDING CO., INC.
LICENSE #796046

Central Valley

FRESNO, CA 93725
PH: 559.445.0139
FX: 559.445.2879

April 25, 2013

Mr. John C. McMillan
Deputy Division Chief
Division of Engineering Services
California Department of Transportation

10-DX8504
10-Mer-59-RO.2/7.9
B.O. 03/19/2013

Dear Mr. McMillan,

In response to your letter dated April 15, 2013 we have reviewed your response and respectfully disagree with the resultant disallowance of our successful low bid.

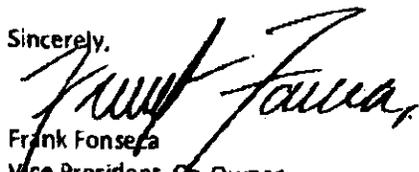
During our bidding process we elected to list Sam's Equipment & Supplies (DGS # 27563) as a Disabled Veterans Business Enterprise (DVBE) only after first determining from the California Department of General Services own website that Sam's Equipment & Supplies DVBE status was current (it is valid from 10/30/2012 until 09/30/2014). Secondly we determined that "Asphalts" (classification 301216) is an approved classification under their DVBE profile on California Department of General Services website (see attached printout from the CA OGS' website). As of today, April 24, 2013 they are still listed as a certified DVBE supplier in Merced County with Asphalt as an approved classification.

Given the above findings during our own due diligence in this matter and our reliance on California DGS's website we respectfully request that this project be awarded to Fonseca/McElroy Grinding Co, Inc. (FMG) or should that not be possible at minimum that this project be rebid. Awarding this project to an alternate bidder would be economically damaging to FMG, a California certified Small Business Enterprise.

To discuss this matter further please don't hesitate to contact Tom de Jong, Director of Business Development for FMG at (408) 573-9364 or by email to: tom@fmgcoinc.com

We look forward to your response so we may best decide how to proceed in this matter.

Sincerely,



Frank Fonseca
Vice President, Co-Owner
Fonseca McElroy Grinding Co., Inc.

BidSync: The State of California: Samuel Callison

Page 1 of 2



SAM'S EQUIPMENT & SUPPLIES - #27563

SUPPLIER PROFILE	
Legal Business Name	Samuel Callison
Doing Business As	SAM'S EQUIPMENT & SUPPLIES
Address	PO BOX 7797 PRESNO, CA 93747-7797
Phone	(559) 252-0354
FAX	(559) 251-1119
Email	samuelcallison@comcast.net
Business Types	Non-Manufacturer
Service Areas	Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Los Angeles, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Ventura, Yolo, Yuba.
Keywords	construction equipment K-rail material landscape material BMP material concrete pipe manhole material geotextiles electrical asphalt traffic control equipment structural steel
Classifications	101615 - Trees and shrubs 101616 - Floral plants 101618 - Non flowering plants 101715 - Organic fertilizers and plant nutrients 101716 - Chemical fertilizers and plant nutrients 101717 - Herbicides 211015 - Agricultural machinery for soil preparation 221015 - Earth moving machinery 221016 - Paving equipment 221017 - Heavy equipment components 221018 - Aerial lifts 221019 - Building construction machinery and accessories 221020 - Building demolition machinery and equipment 251017 - Product and material trailers 261215 - Electrical wire 261216 - Electrical cable and accessories 261217 - Wiring harness 271127 - Power tools 301016 - Bar 301017 - Beams 301021 - Plate 301024 - Rod 301028 - Piling 301029 - Post 301031 - Rails 301036 - Structural products 301115 - Concrete and mortars 301116 - Cement and lime 301215 - Bituminous derivatives 301216 - Asphalts 301217 - Road and railroad construction materials 301515 - Roofing materials 301519 - Finishing materials and products 391211 - Distribution and control centers and accessories 391213 - Electrical boxes and enclosures and fittings and accessories 391214 - Electrical rags plugs and connectors 391215 - Switches and controls and relays and accessories 391216 - Circuit protection devices and accessories 391217 - Electrical hardware and supplies 391317 - Wire Raceways Conduit and Busways 401016 - Valves 401021 - Pipe 401023 - Pipe fittings 401024 - Pipe flanges 401026 - Tube fittings 461615 - Traffic control 471015 - Water treatment and supply equipment 471217 - Waste containers and accessories 471318 - Absorbents 491615 - Field sports equipment

Active Certifications

TYPE	STATUS	FROM	TO
• DVBE	Approved	Oct 30, 2012	Sep 30, 2014
SB (Micro)	Approved	Sep 24, 2012	Sep 30, 2014

STATE OF CALIFORNIA - BUSINESS, TRANSPORTATION AND HOUSING AGENCY

FREDERICK G. BROWN, Jr. Governor

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
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 SACRAMENTO, CA 95816-8041
 PHONE (916) 227-6280
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 TTY 711



*Flex your power!
 Be energy efficient!*

April 15, 2013

Facsimile: (408)573-8364

Frank Fonseca
 Fonseca/McElroy Grinding Company, Inc.
 336 E Gish Road
 San Jose, CA 95112

10-0X8504
 10-Mer-59-R0.2/7.9
 B.O. 03/19/2013

Dear Mr. Fonseca:

The Department of Transportation (Caltrans) received the attached Disadvantaged Veterans Business Enterprise (DVBE) Commitment form submitted by Fonseca/McElroy Grinding Company, Inc. (Fonseca) on March 21, 2013, for Contract No. 10-0X8504.

Based on the information outlined in the attached memorandum from the Office of Business and Economic Opportunity, Contract Evaluation Unit (CEU), Sam's Equipment & Supplies' (Sam's) participation has been disallowed because hot mix asphalt is not an allowable supply item that can be provided by Sam's. In addition, due to Sam's inability to provide management, supervision, or control for the transportation of the materials limits their ability to perform a Commercially Useful Function.

Based on the above disallowance determination, Fonseca did not meet the participation goal of 3 percent and is no longer eligible for award of this contract.

If you have any questions, please contact Deborah Crawford, Contract Evaluation Analyst, at (916) 324-8389 or by email deborah_crawford@dot.ca.gov.

Sincerely,

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

Attachment(s)

- Gordon Ball -

State of California
DEPARTMENT OF TRANSPORTATION

Business, Transportation and Housing Agency

Memorandum

*Flex your power
Be energy efficient*

To: **EARL SEABERG**
Chief, Office of Contracts & Awards
Division of Engineering Services

Date: April 2, 2013

From: **JEFFREY SKIDMORE**
Manager, Contract Evaluation Unit (CEU)
Office of Business and Economic Opportunity

*DGS, listed as
asphalt supplier*

Subject: Contract No.: 10-0X8504

The bid submitted by Fonseca/McElroy Grinding Co., Inc., for the above referenced contract listed Sam's Equipment & Supplies as a Disabled Veterans Business Enterprise (DVBE). The documentation received with the bid indicates Sam's Equipment & Supplies will supply hot mix asphalt to be provided for this contract.

The CEU Staff has determined that according to the OBEO's site visit, it was concluded that hot mix asphalt is not an allowable supply item which can be provided by Sam's Equipment. Additionally, Sam's Equipments inability to provide management, supervision or control for the transportation of the materials limits their ability to perform a Commercially Useful Function. Therefore, Sam's Equipment & Supplies participation cannot be counted towards the DVBE goal.

If you have any questions/concerns, you may contact Deborah Crawford, CEU Analyst, at (916) 324-8389 or by electronic mail at deborah_crawford@dot.ca.gov.

Please notify the prime contractor and the subcontractor.

Fonseca/McElroy Grinding Co., Inc.
336 E. Gish Rd.
San Jose, CA 95112

Sam's Equipment & Supplies
P.O. Box 7797
Fresno, CA 93747

Second Bidder

DISTRICT-COUNTY-ROUTE: 10 · MGR · S9
 CONTRACT NO.: 10-0X8504
 TOTAL BID: \$ 2,632,277.⁰⁰
 BID OPENING DATE: 3/19/13
 BIDDER'S NAME: Fonseca/MoEira Grinding Co., Inc.
 DVBE PRIME CONTRACTOR CERTIFICATION: n/a

Bid Item Number	Description of Work to Be Subcontracted to DVBE or Materials to Be Supplied by DVBE *	For Caltrans Only	DVBE (Name, Telephone No., and Certification No.)	\$ Amount
15 (partial)	Buy 2800 tons of Hot Mix Asphalt (Type A) @ \$52.77 per ton = \$147,756. ⁰⁰ ✓ X 60% = \$88,653. ✓ (Materials to be supplied by Second Tier sub to W. Jason Baker)	DVBE 9/30/14 + 27563	Sam's Equipment & Supplies 559 252 0354 P.O. Box 7797 Fresno, CA 93747 Cer# 27563	\$88,653. ⁰⁰
Names of first tier DVBE subcontractors and their items of work listed must be consistent with the names and items of work in the Subcontractor List (Pub Cont Code § 4100 et seq.) submitted with the bid. Identify second and lower tier subcontractors on this form.				Total Claimed Participation \$ 88,653. ⁰⁰ 3.3 %

- DVBE prime contractors must enter their DVBE reference number or their DBA name as listed with Department of General Services (DVBE prime contractors are credited with 100 percent DVBE participation and need not complete the above table).
- If 100% of an item is not performed or supplied by the DVBEs, describe the exact part, including the planned location of work to be performed, of item to be performed or supplied by DVBE.

Submit to:

MSC 43
 OFFICE ENGINEER
 DEPARTMENT OF TRANSPORTATION
 1727 30TH STREET
 SACRAMENTO, CA 95816-7005

Signature of Bidder

Date

Steve Equer 3/20/13
 408 953 9364

(Area Code) Telephone Number

Steve Equer

Contact Person

(Type or Print)

DB

ANSP

172

SACR

CA 95816-7005

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 854-8418 or TDD (916) 854-3880 or (916) 854-3880. Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

APPROVED / MET GOAL

GOAL NOT MET

03-21-13 P12 44 8770

CONTRACT EVALUATION MANAGER

CONTRACT EVALUATION MANAGER

Contract No. 10-0X8504

DATE: 4/3/13

DATE: _____

Memorandum

*Flex your power!
Be energy efficient!*

To: EARL SEABERG
Chief, Office of Contracts & Awards
Division of Engineering Services

Date: April 2, 2013

From: JEFFREY SKIDMORE
Manager, Contract Evaluation Unit (CEU)
Office of Business and Economic Opportunity

Subject: Contract No.: 10-0X8504

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Please notify the prime contractor and the subcontractor.

Fonseca/McElroy Grinding Co., Inc.
336 E. Gish Rd.
San Jose, CA 95112

Sam's Equipment & Supplies
P.O. Box 779
Fresno, CA 93747

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

Apr 29 2013 03:25pm

P. 1

CALTRANS CONTR AWARDS Fax 916-227-6282

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
914085738364	Normal	29:03:24pm	1'12"	8	# 0 K	

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

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April 29, 2013

Facsimile: (408) 573-8364

Frank Fonseca, Vice President
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336 E Gish Road
San Jose, CA 95112

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B.O. 03/19/2013

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

Attachments