



May 15, 2014

California Department of Transportation  
Division of Engineering Services  
Office Engineer MS 43  
1727 30<sup>th</sup> St.  
Sacramento, CA 95816  
Fax: 916-227-6282

**Contract:** 10-0X4404  
**Re:** Bid Protest of Low Bidder  
**Bid Opening:** May 7, 2013

Dear Sir or Madam,

The low bidder, O'Donnell Construction, Inc., on the above referenced contract listed a DVBE subcontractor on their Certified DVBE Summary that was not listed on their Subcontractor List at the time of bid.

In the bid documents, page 7 of the Revised Standard Specifications, sixth paragraph under Section 2-1.15B clearly states:

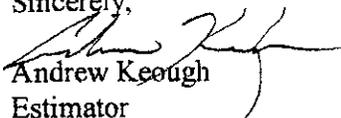
**“List each 1<sup>st</sup>-tier DVBE subcontractor on the Subcontractor List form regardless of percentage of the total bid.”**

The low bidder did not list Titan DVBE on their Subcontractor List at the time of bid. The low bidder then listed Titan DVBE on their Certified DVBE Summary days later, providing flagging, in order to reach the 5% goal. Regardless of percentage, Titan DVBE must be listed on the Subcontractor List.

The credit claimed via Titan DVBE should be disallowed as they were not listed on the Subcontractor List on the day of bid, as required. The low bidder therefore did not meet the DVBE goal as shown in the *Notice to Bidders*, so their bid is non-responsive and must be rejected.

Please contact the undersigned with any questions.

Sincerely,

  
Andrew Keough  
Estimator  
American Civil Constructors

