

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

1727 30th Street, MS-43

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6299

FAX (916) 227-6282

www.dot.ca.gov/hq/esc/

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April 29 2025

email: tbrown@mccueninc.com

Trenton B. McCuen, President
McCuen Construction, Inc.
3269 Swetzer Road
Loomis, CA 95650

03-0J5604
03-Pla,Nev-80-49.3/68.7
B.O. 4/17/2025

Dear Mr. McCuen:

The Department of Transportation (Caltrans) received a bid submitted by McCuen Construction, Inc. (McCuen), for the above federal aid contract on April 17, 2025. By this letter, Caltrans notifies McCuen that its bid is nonresponsive.

The 2024 Standard Specifications, Section 2-1.33B(2)(b)(ii), Bid Form Submittal/Bid Form Submittal Schedule for a Federal-Aid Contract with a DBE Goal, provides that the DBE Commitment Form, DBE Confirmation Form and DBE Good Faith Efforts Documentation must be submitted "No later than 4 p.m. on the 5th day after bid opening."

Caltrans confirms receipt of McCuen's Disadvantaged Business Enterprise (DBE) Submittal documentation on April 23, 2025 at approximately 3:50 p.m., which is after the submittal deadline of April 22 2025.

Additionally, Caltrans received a letter on April 28, 2025, from McCuen protesting that due to Good Friday and Easter Sunday falling within the 5-day submission timeline, McCuen's late DBE submittal should be accepted as timely for the above-referenced contract. McCuen notes they experienced difficulties coordinating the submission of bid documents due to staffing shortages over the holiday weekend. McCuen further notes in their protest, among other things, that for DVBE commitments on non-federal aid projects, 4 business days for submissions are allowed, whereas for DBE commitments on federally funded projects, only 5 calendar days are provided. McCuen alleges this "discrepancy" between the deadlines results in less flexibility for DBE firms and primes working to meet participation goals.

Caltrans again refers McCuen to Section 2-1.33B(2)(b)(ii), which further states, in reference to the DBE Commitment Form, DBE Confirmation Form and DBE Good Faith Efforts Documentation that "If the last day for submitting the bid form falls

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on a Saturday or holiday, it may be submitted on the next business day with the same effect as if it had been submitted on the day specified." As McCuen admits in its letter, there is no provision that extends DBE submittal deadlines if holidays occur within the deadline period. Further, Caltrans notes that neither Good Friday nor Easter Sunday are recognized holidays pursuant to Section 1-1.07B, "Glossary," of the 2024 Standard Specifications. (See definition of "holiday").

Caltrans finds that the last day for submitting bid forms did not fall on a Saturday or holiday, therefore the due date was the 5th day after bid opening as stated above. Caltrans finds McCuen's observations regarding the deadline for contracts with a DVBE commitment to be irrelevant, as 03-0J5604 does not have a DVBE commitment, therefore the deadline period for submittals is not the same. As McCuen has previously bid on several past Caltrans projects, McCuen should be well aware of the different submittal requirements and deadlines between projects. Caltrans reminds McCuen that it is the bidder's responsibility to review all relevant bid documents to ensure that the correct requirements, such as submittal schedules, are being followed. These schedules and subsequent deadlines are provided to bidders well in advance of bid opening.

Based on the above, Caltrans finds McCuen's protest is without merit and Caltrans will proceed to award the contract to the lowest responsive and responsible bidder, provided that all requirements are met.

If you have any questions, please contact Juan Loera, Contract Awards Branch Chief at (916) 227-5964.

Sincerely,

Rudy C Lopez

Rudy C Lopez
Office Chief
Construction Contract Awards
Program/Project Management & Office Engineer
Division of Engineering Services