

**Minneapolis**  
City of Lakes

**Finance Department**

350 South 5th Street – Room 325M  
Minneapolis MN 55415-1315

Office 612 673-2079  
Fax 612 673-2042  
TTY 612 673-2157

April 25, 2012

Mr. David Schlueter  
City of Minneapolis Purchasing  
330 Second Avenue South – Suite 552  
Minneapolis, MN 55401

**Re: Emergency Operations Training Facility Apparatus Bay Addition  
Project Bids**

**Official Publication No. 7580**

Dear Mr. Schlueter:

The Department of Finance - Property Services Division has reviewed the bid of Ebert Inc. DBA Ebert Construction for the Emergency Operations Training Facility Apparatus Bay Addition Project, located at; 25 37<sup>th</sup> Ave. NE, Fridley, Minnesota.

The Department of Finance finds the base bid in the amount of **\$1,808,800.00**, Alternate No. 1 in the amount of **\$158,600.00**, for a total bid of **\$1,967,400.00** acceptable and Recommends referral of the Low Qualified Bid to the Ways and Means Committee for acceptance and referral to the full City Council.

Sincerely,

Chris Backes  
Construction Management Coordinator  
Property Services  
350 S. 5th St. Room 223  
Minneapolis, MN. 55415-1390  
(612)673-3774



Official Publication 7580 Bids opened 10 AM, Local Time, February 23 <sup>rd</sup> , 2012 Minneapolis MN		"BIDS FOR EMERGENCY OPERATIONS TRAINING FACILITY ADDITION" - Finance/Property Services						
		1. PMI Construction Company	2. Rochon Corporation	3. Merrimac Construction Company, Inc.	4. Jorgenson Construction Inc.	5. Shaw- Lunquist Associates, Inc.	6. A & L Construction Inc.	7. Ebert Inc. DBA Ebert Construction
<b>Lump Sum Base Bid</b>	\$	2,121,000.00	1,749,000.00	1,798,018.00	1,783,000.00	1,902,000.00	2,150,000.00	1,808,800.00
Alternate No. 1 - Additional Apparatus Bay	\$	210,000.00	158,000.00	331,750.00	155,000.00	138,500.00	222,000.00	158,600.00
Alternate No. 2 - Second Additional Apparatus Bay	\$	240,000.00	211,000.00	431,632.00	176,000.00	185,300.00	270,000.00	202,200.00
Alternate No. 3 - Turnout Racks for Locker Room	\$	18,000.00	16,800.00	17,369.00	17,000.00	18,150.00	18,000.00	17,300.00
Unit Price No. 1 - Excavation of soil	\$	12.00	1.90	2.00	1.87	2.20	2.20	1.87
Unit Price No. 2 - Placement of on-site soil	\$	12.00	3.70	4.00	3.62	3.98	4.50	3.62
Unit Price No. 3 - Disposal of "Daily Cover"	\$	70.00	17.70	19.00	17.67	20.85	19.00	17.67
Unit Price No. 4 - Disposal of "Industrial Waste"	\$	70.00	24.50	26.00	24.39	26.95	26.50	24.39
Unit Price No. 5 - Disposal of "Asbestos Containing Waste"	\$	80.00	24.50	26.00	24.39	26.95	26.50	24.39
Unit Price No. 6 - Importing Engineered Fill	\$	40.00	3.90	4.00	3.81	11.55	4.50	3.81
Unit Price No. 7 - Importing, Placing & Compacting Topsoil	\$	40.00	1.00	-	0.01	12.10	7.00	0.01
Unit Price No. 8 - Hourly rates for asbestos removal	\$	200.00	375.00	399.00	375.00	412.50	450.00	375.00
Unit Price No. 9 - MCES Discharge Fees	\$	3,200.00	0.01	-	0.005	0.01	0.05	0.005
Unit Price No. 10 - Excavation of soil for Utility Trenches	\$	12.00	1.90	2.00	1.87	2.20	2.20	1.87
Unit Price No. 11 - Importing, Placing & Compact fill for Utility Backfill	\$	40.00	3.90	4.00	3.81	11.55	7.00	3.81
		We, the undersigned, hereby certify that the above bids were publicly opened and read aloud:						
		<i>Heidi Sinner</i>						
		FOR THE FINANCE OFFICER						
		<i>Christy Sinner</i>						
		ASST. DIRECTOR, PURCHASING						



March 30, 2012

*Sent via email*

Scott Larkin  
Rochon Corporation  
3650 Annapolis Lane North #101  
Plymouth, MN 55447

Department of Civil Rights

Velma J. Korbel  
Director

RE: Good Faith Efforts Request – EOTF Apparatus Bay Addition (OP 7580)

Dear Mr. Larkin:

The Minneapolis Department of Civil Rights (MDCR) has concluded its pre-award Small Underutilized Business Participation (SUBP) review related to Emergency Operations Training Facility Apparatus Bay Addition project, OP 7580. We regret to inform you that MDCR will not be recommending Rochon Corporation (Rochon) for approval on this project.

According to Chapter 423 of the Minneapolis Code of Ordinances, bidders must “make every necessary and reasonable effort to subcontract work to MBEs/WBEs in advance of the dates specified for submitting and opening of bids or requests for proposals.” A bidder not fully meeting the SUBP goals shall demonstrate its good faith efforts (GFE) to do so and MDCR “shall determine if a business has made adequate good faith efforts. If a bidder or proposer fails to meet the project goals and does not demonstrate good faith efforts, the bid or proposal will be rejected and the bidder or proposer shall not be awarded the contract.” After careful examination of all documentation submitted by Rochon, MDCR has determined that Rochon neither met the SUBP goals on the project nor engaged in good faith efforts to contract with certified Minority-owned Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs).

The GFE documents and subsequent clarification indicate that Rochon did not follow up on its solicitations with a reasonable number of certified companies. Rochon identified 57 certified companies and included them in an email bid solicitation through the iSqFt program. However, Rochon only directly followed up with seven of the companies. 423.90(g)(1) of the SUBP ordinance states, “The bidder or proposer must determine with certainty if the MBEs/WBEs are interested by taking appropriate steps to follow up on initial solicitations.” Rochon was aware of this requirement, as Sections 423.90(g)(1-7) were printed on the handout that MDCR staff distributed at the prebid meeting, which Rochon attended. In that meeting MDCR staff also urged contractors to read the language and specifically explained that blanket emails and faxes were insufficient and that bidders should make direct follow up contact with the certified companies solicited.



www.ci.minneapolis.mn.us  
Affirmative Action Employer

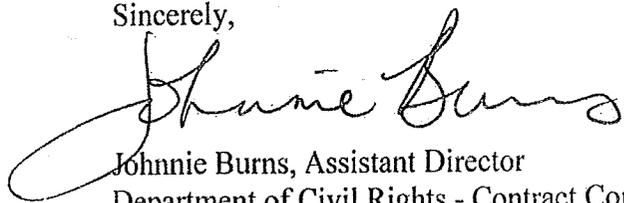
The GFE documents submitted listed four certified companies that had not been listed on the SUBP form. However, any efforts to secure the participation of three the companies appear to have taken place after the bidletting. Rochon explained that it had chosen Engineering Design when filling out the Bidders List in order to add participation and contribute to their good faith efforts, as that company was not the low bidder for that scope of work. The other two companies reflect 2<sup>nd</sup>-tier participation, which appears to have been identified after the bidletting, rather than beforehand as required by ordinance.

Rochon has also stated that it hopes to secure additional SUBP participation at the 2<sup>nd</sup> tier level in several areas. However, the documentation has not demonstrated that adequate efforts were made to secure participation in this respect prior to the bidletting. The invitation to bid merely stated, "Minneapolis has listed SUBP goals of 6% WBE and 6% MBE. The selected vendor must comply with the Small & Underutilized Business Enterprise Program (SUBP), as detailed in Chapter 423 of the Minneapolis cod of Ordinances." While MDCR recognizes clear encouragement of second tier participation as an example of good faith effort, this statement does not appear to strongly encourage second tier participation, and Rochon has provided no evidence that it made any additional efforts prior to the bidletting in this area. Moreover, efforts to secure 2<sup>nd</sup> tier participation do not outweigh Rochon's responsibility to make efforts to contract with MBE/WBEs directly.

For the reasons explained above, MDCR will not recommend approval of Rochon Construction, Inc. for the Emergency Operations Training Facility Apparatus Bay Addition project, OP 7580.

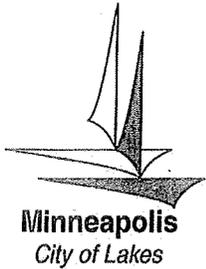
Should you have any questions, please contact me at [johnnie.burns@minneapolismn.gov](mailto:johnnie.burns@minneapolismn.gov) or (612) 673-3076.

Sincerely,



Johnnie Burns, Assistant Director  
Department of Civil Rights - Contract Compliance Unit

Cc: Velma Korbel  
Bruce Gritters  
Melanie Bormett  
Chris Backes



April 16, 2012

*Sent via email*

Bonnie Jorgenson  
Jorgenson Construction, Inc.  
9255 East River Road NW  
Coon Rapids, MN 55433-5722

RE: Good Faith Efforts Review – OP 7580 EOTF Apparatus Bay Addition

Dear Ms. Jorgenson:

The Minneapolis Department of Civil Rights (MDCR) has concluded its pre-award Small Underutilized Business Participation (SUBP) review related to Emergency Operations Training Facility Apparatus Bay Addition project, OP 7580. We regret to inform you that MDCR will not be recommending Jorgenson Corporation (Jorgenson) for approval on this project.

According to Chapter 423 of the Minneapolis Code of Ordinances, bidders must “make every necessary and reasonable effort to subcontract work to MBEs/WBEs in advance of the dates specified for submitting and opening of bids or requests for proposals.” A bidder not fully meeting the SUBP goals shall demonstrate its good faith efforts (GFE) to do so and MDCR “shall determine if a business has made adequate good faith efforts. If a bidder or proposer fails to meet the project goals and does not demonstrate good faith efforts, the bid or proposal will be rejected and the bidder or proposer shall not be awarded the contract.” Because the SUBP form submitted with Jorgenson’s bid listed the SUBP participation as “None,” MDCR conducted a GFE review. After careful examination of all documentation submitted by Jorgenson, MDCR has determined that Jorgenson did not engage in good faith efforts to contract with certified Minority-owned Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in advance of the bidletting as required by ordinance.

Jorgenson was made aware of the goals and GFE requirements on this project from the project specifications. The goals and the GFE requirements [(423.90(g)(1-7) - “Good faith efforts”] were also printed on the handout that was distributed at the prebid meeting, which Jorgenson attended. In that meeting MDCR staff explained the requirements and urged contractors to read the language on the handout.

The GFE documents and follow up communication demonstrate that in advance of the bidletting Jorgenson did not adequately solicit SUBP participation through all reasonable and available means, determine with certainty the interest of bidders, take appropriate steps to follow up on initial solicitations, or engage in the other good faith efforts referenced in Sections 423.90(g)(1-7). Jorgenson did not solicit bids from, or follow up with, a reasonable number of certified firms on this project. Jorgenson only invited one certified company (either a WBE or an MBE) in each of eight (or six) subcontracting areas, though there are numerous certified companies in most of these areas. Jorgenson also did not invite any certified companies to bid on the various other subcontracting areas on this project, though there are numerous certified companies that work in those areas as well. Of the eight (or six) certified firms that were solicited, none submitted a bid. Also, the invitation to bid did not make any reference to the SUBP goals or requirements.

Department of Civil Rights

Velma J. Korbel  
Director

350 South 5th Street - Room 239  
Minneapolis MN 55415-1314

Office 612 673-3012  
Fax 612 673-2599  
TTY 612 673-2157



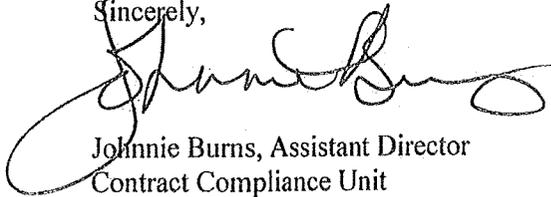
www.ci.minneapolis.mn.us  
Affirmative Action Employer

It also appears that most of the efforts Jorgenson made took place after the bidletting rather than beforehand as required by ordinance. Jorgenson listed "None" for SUBP participation on the form submitted with its bid, demonstrating that prior to bid it had not secured participation from certified firms. It was not until after MDCR requested GFE documentation that Jorgenson demonstrated its intent to contract with two MBEs and four WBEs. None of these companies appear to have been solicited prior to bid. Phone and email communication between MDCR staff and one of Jorgenson's prospective subcontractors further suggests that Jorgenson was attempting to secure SUBP participation while preparing its GFE documentation. Also, MDCR's letter requesting GFE documentation incorrectly listed the goals as 3% MBE and 5% WBE (rather than 6% and 6%) and Jorgenson's GFE documentation listed a participation rate of 3.4% MBE and 5.7% WBE, based on the total contract amount. The fact that these rates were just over the incorrectly stated goals further supports the conclusion that the efforts to contract with the certified companies occurred after the documentation was requested. In any case, the participation ultimately achieved is moot, as the efforts appear to have been made after the bidletting.

For the reasons explained above, MDCR will not recommend approval of Jorgenson Construction, Inc. for the Emergency Operations Training Facility Apparatus Bay Addition project, OP 7580.

Should you have any questions, please contact me at [johnnie.burns@minneapolismn.gov](mailto:johnnie.burns@minneapolismn.gov) or (612) 673-3076.

Sincerely,

A handwritten signature in black ink, appearing to read "Johnnie Burns", written over a large, stylized flourish that extends to the left and loops back under the signature.

Johnnie Burns, Assistant Director  
Contract Compliance Unit

Cc: Velma Korbel  
Bruce Gritters  
Melanie Bormett  
Chris Backes