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Fisher Sand & Gravel - New Mexico, Inc.

General Steel and Supply Company
Southwest Concrete Paving Co.

April 21, 2021

Mershawn Griego
New Mexico Department of Transportation
PO Box 1149
Santa Fe, NM 87504

Submitted via email to MereshawnC.Griego@state.nm.us

RE: written comment for proposed repeal and replacement of 18.27.5 NMAC

Dear Mershawn Griego:

Per the NMDOT Notice of Proposed Rulemaking Hearing we respectfully offer the following information as our official written comments regarding the repeal and replacement of 18.27.5 NMAC, Contractor Prequalification Rule.

Attached for your review is data that I have compiled based on the Departments current Prequalified Contractors and Subcontractors List (04/09/21). I used this information in combination with data from a third party marketing program that tracks low bids for the NMDOT. The program doesn't account for rejected bids, rebids or bids awarded to someone other than the low bidder, so the total programmed dollars may be slightly off from the actual awarded amounts. I believe for the purposes of this analysis, it does present fairly accurate data regarding projects by firm and volume by firm. I used all projects bid from the beginning of 2017 through the end of 2020. While some of this work is still ongoing, it more than likely encompasses the data utilized to determine the scores for the current prequalified contractors list.

There are currently 27 firms that have a PQFRA of less than 1.0. These firms represent nearly 97% of the work let by the NMDOT over the 4 years spanning 2017 through 2020. Additionally, there are 10 firms that have a PQFRA of less than 0.940. These 10 firms represent just under 67% of the work let by the NMDOT.

Although a lower limit of 0.90 for PQFRA is possible, we believe that for the purposes of application to bid prices, the best possible value should be capped at 0.94. A firm would still be allowed to achieve a composite score less than 0.94 but the maximum benefit at bid time would be capped at the 0.94 value.



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In reviewing the attached data, it appears one of the biggest reasons New Mexico firms have a score greater than 0.94 but less than 1.0 has to do with specialization of work and geographical operating footprint. Those two factors tend to restrict the number of projects firms are able to secure as prime contractors, which directly relates to their ability to achieve yearly data points for analysis by the prequalification program. If you assume a firm receives a perfect score of 0.90 in all available categories, their PQFRA would be the following –

Years w / Data	PQFRA
Year 1 (only)	0.950
Year 2 (only)	0.967
Year 3 (only)	0.983
Year 1 & 2	0.917
Year 1 & 3	0.933
Year 2 & 3	0.950
Year 1, 2 & 3	0.900

There are several firms that don't have the ability to regularly secure and close work on a yearly basis. Some of them are specialized firms in electrical, striping or guardrail. There are a limited number of these type of contracts, and as a result, there is a limited ability to get a score by all firms performing this work in a given period. Additionally, the NMDOT has been letting some significant sized specialized projects, which could presumably be subject to the application of the PQFRA factor. As a result, scores by these firms are just as important as scores by the larger firms who work across all scopes.

New Mexico is also unique in the fact that there are several geographical firms that only work in close proximity to their home office. These firms don't have the workforce or organizational structure to work throughout the entire state. Consequently, they are limited in the number of projects they can secure based on the NMDOT's letting schedule. If a job doesn't bid in their area for a given period, they will not have an opportunity to get a score for the program.

By setting the bottom threshold for PQFRA applied at bid time to 0.94, the NMDOT would give both specialized and geographically limited firms the opportunity to compete with the handful of firms who are able to secure multiple projects throughout the state for a given period. If these firms secured perfect scores for 2 out of 3 scoring periods, with the first period being one of the scores, they would compete on a level playing field with the larger statewide firms. If they didn't have a score for the most recent period, but did have perfect scores for the other two periods, they would only be disadvantaged by 1%. Additionally, if they only had a score in the current period, their disadvantage would be 1% over a contract that may have scores for all three periods.



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This would in no way water down the requirements of the program. It would still require nearly perfect scores on project with all available factors by these firms to achieve the maximum benefit of the program.

We believe that by capping the PQFRA at 0.94 at bid time, the NMDOT will be able to eliminate the problem associated with too few available data points for their contracting firms, which is a real problem for both specialized and geographically limited firms.

Please feel free to contact me at (505)249-1522 if you should have any questions.

Respectfully,

A handwritten signature in black ink, appearing to read 'Michael Moehn', is written over a light blue horizontal line.

Michael Moehn
Vice President
Fisher Sand & Gravel – New Mexico Inc.

Contractor Breakdown 2017 to 2020 (Bid)

Total value of all bids \$ 1,415,879,302.48

Contractor	Score	No of Jobs	Volume	% of total Volume
Hasse Contracting Company	0.900	21	\$ 41,897,236.00	3.0%
Mountain States Constructors	0.901	27	\$ 344,794,981.00	24.4%
FNF Construction	0.903	14	\$ 209,441,884.00	14.8%
La Calerita Construction	0.906	2	\$ 34,967,393.00	2.5%
El Terrero Construction	0.912	17	\$ 105,282,561.00	7.4%
Apache Construction	0.917	4	\$ 19,213,294.00	1.4%
Bixby Electric	0.917	4	\$ 2,021,303.00	0.1%
San Bar	0.917	7	\$ 7,465,776.00	0.5%
Fisher Sand & Gravel - NM	0.928	15	\$ 162,885,444.00	11.5%
K Barnett & Sons	0.933	3	\$ 16,114,797.00	1.1%
Kiewit New Mexico	0.947	4	\$ 8,482,533.00	0.6%
MWI	0.950	5	\$ 6,220,363.00	0.4%
Albuquerque Asphalt	0.950	4	\$ 29,905,951.00	2.1%
Northern Mountain Constructors	0.950	6	\$ 67,478,935.00	4.8%
TLC	0.950	1	\$ 11,533,839.00	0.8%
AUI	0.952	10	\$ 147,438,477.00	10.4%
James Hamilton Construction	0.953	3	\$ 28,030,224.00	2.0%
Constructors	0.959	9	\$ 55,683,706.00	3.9%
JH Supply Company	0.967	5	\$ 12,178,034.00	0.9%
Kimo	0.967	10	\$ 23,468,299.00	1.7%
Oldcastle SW Group	0.967	2	\$ 3,250,549.00	0.2%
Rock Canyon Construction	0.967	2	\$ 3,719,179.00	0.3%
Roper Construction	0.967	1	\$ 802,370.00	0.1%
Star Paving Co	0.967	3	\$ 15,590,159.00	1.1%
Villalobos Construction Co	0.967	5	\$ 6,608,373.00	0.5%
Highway Supply Co	0.971	3	\$ 461,881.00	0.0%
The Truesdell Corporation	0.987	3	\$ 2,519,518.00	0.2%

Total Volume < 1.0 96.6%

Total Volume < 0.94 66.7%

Note - attached report is generated from third party software. Jobs bid but not awarded may be included in totals.

NEW MEXICO MARKET ANALYSIS REPORT

Date: 04/21/2021

Time: 10:09:57 AM

bidTABS.NET

Total of all Low Bids: \$1,415,879,302.48		Sorted By: Total Dollars Low		Date Range: 01/20/2017 to 12/18/2020				Project Type: All Project Types			
Rank	Contractor	# Jobs Won	Single Bid Jobs	Total \$ Low	Total \$ Bid	% Won of All Jobs	# Jobs Bid	% Won (#) of Jobs Bid	% Won (\$) of Jobs Bid	% Left on Table	
1	MOUNTAIN STATES CONSTRUCTORS, INC.	27	2	344,794,981	669,511,020	24.35%	49	55.10%	51.50%	8.70%	
2	FNF CONSTRUCTION, INC.	14	0	209,441,884	961,184,487	14.79%	65	21.54%	21.79%	6.90%	
3	FISHER SAND & GRAVEL - NM INC.	15	1	162,885,444	672,547,550	11.50%	51	29.41%	24.22%	10.50%	
4	AUI, INC.	10	3	147,438,477	438,165,675	10.41%	41	24.39%	33.65%	7.20%	
5	EL TERRERO CONSTRUCTION, LLC	17	1	105,282,561	304,139,501	7.44%	37	45.95%	34.62%	9.60%	
6	NORTHERN MOUNTAIN CONSTRUCTORS	6	0	67,478,935	113,255,134	4.77%	9	66.67%	59.58%	15.80%	
7	CONSTRUCTORS, INC.	9	2	55,683,706	160,373,945	3.93%	19	47.37%	34.72%	7.30%	
8	HASSE CONTRACTING COMPANY, INC.	21	7	41,897,236	95,746,715	2.96%	37	56.76%	43.76%	10.50%	
9	LA CALERITA CONSTRUCTION, LLC	2	0	34,967,393	34,967,393	2.47%	2	100.00%	100.00%	12.00%	
10	ALBUQUERQUE ASPHALT	4	1	29,905,951	126,055,438	2.11%	12	33.33%	23.72%	10.20%	
11	JAMES HAMILTON CONSTRUCTION CO	3	1	28,030,224	106,388,491	1.98%	11	27.27%	26.35%	3.00%	
12	J & H SERVICES	1	0	24,824,081	27,774,626	1.75%	2	50.00%	89.38%	2.20%	
13	KIMO CONSTRUCTORS, INC.	10	1	23,468,299	49,186,359	1.66%	25	40.00%	47.71%	9.80%	
14	APACHE CONSTRUCTION DBA VALLEY FENCE COMPANY	4	2	19,213,294	41,942,033	1.36%	10	40.00%	45.81%	1.20%	
15	STRUCTURES, INC.	3	1	16,488,057	41,174,043	1.16%	9	33.33%	40.04%	11.50%	
16	K. BARNETT AND SONS, INC.	3	1	16,114,797	27,727,555	1.14%	5	60.00%	58.12%	12.40%	
17	STAR PAVING COMPANY	3	1	15,590,159	19,501,665	1.10%	5	60.00%	79.94%	17.70%	
18	J-H SUPPLY, INC.	5	0	12,178,034	31,511,211	0.86%	11	45.45%	38.65%	21.90%	
19	TLC COMPANY, INC.	1	0	11,533,839	27,706,132	0.81%	4	25.00%	41.63%	13.40%	
20	KIEWIT NEW MEXICO CO.	4	1	8,482,533	114,349,211	0.60%	18	22.22%	7.42%	25.20%	
21	SAN BAR CONSTRUCTION CORP	7	1	7,465,776	12,171,394	0.53%	12	58.33%	61.34%	14.70%	
22	VILLALOBOS CONSTRUCTION CO.	5	0	6,608,373	19,951,276	0.47%	13	38.46%	33.12%	18.10%	
23	MWI, INC.	5	0	6,220,363	7,282,647	0.44%	6	83.33%	85.41%	13.90%	
24	ROCK CANYON CONSTRUCTION, LLC	2	0	3,719,179	4,412,008	0.26%	3	66.67%	84.30%	6.80%	
25	MERIDIAN CONTRACTING, LLC	3	1	3,485,134	9,548,501	0.25%	5	60.00%	36.50%	7.70%	
26	OLDCASTLE SW GROUP, INC.	2	1	3,250,549	25,089,538	0.23%	4	50.00%	12.96%	6.40%	
27	THE TRUESDELL CORPORATION	3	0	2,519,518	4,750,747	0.18%	6	50.00%	53.03%	22.30%	

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Time: 10:09:57 AM

bidTABS.NET

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Rank	Contractor	# Jobs Won	Single Bid Jobs	Total \$ Low	Total \$ Bid	% Won of All Jobs	# Jobs Bid	% Won (#) of Jobs Bid	% Won (\$) of Jobs Bid	% Left on Table	
28	BIXBY ELECTRIC, INC.	4	2	2,021,303	9,106,926	0.14%	9	44.44%	22.20%	6.30%	
29	MESA VERDE ENTERPRISES	1	0	1,824,614	26,831,198	0.13%	5	20.00%	6.80%	26.60%	
30	ROPER CONSTRUCTION, INC.	1	1	802,370	802,370	0.06%	1	100.00%	100.00%	0.00%	
31	RT ELECTRIC, INC.	1	1	677,383	4,663,660	0.05%	4	25.00%	14.52%	0.00%	
32	SMITH AND AGUIRRE CONSTRUCTION CO.	1	0	569,707	8,273,423	0.04%	6	16.67%	6.89%	31.60%	
33	H O CONSTRUCTION, INC.	1	0	553,266	553,266	0.04%	1	100.00%	100.00%	18.90%	
34	HIGHWAY SUPPLY LLC	3	0	461,881	1,774,149	0.03%	7	42.86%	26.03%	28.20%	
35	CORNERSTONE CONTRACTORS, LLC	0	0	0	7,593,603	0.00%	3	0.00%	0.00%	0.00%	
35	FILE CONSTRUCTION, LLC	0	0	0	490,568	0.00%	1	0.00%	0.00%	0.00%	
35	C & E CONCRETE, INC.	0	0	0	1,697,737	0.00%	1	0.00%	0.00%	0.00%	
35	814 SOLUTIONS, LLC	0	0	0	1,097,352	0.00%	1	0.00%	0.00%	0.00%	
35	A & S CONSTRUCTION	0	0	0	15,600,000	0.00%	1	0.00%	0.00%	0.00%	
35	ABCO CONTRACTING, INC.	0	0	0	1,190,234	0.00%	1	0.00%	0.00%	0.00%	
35	ABRAHAM'S CONSTRUCTION, INC.	0	0	0	746,458	0.00%	1	0.00%	0.00%	0.00%	
35	AJAC ENTERPRISES, INC.	0	0	0	881,661	0.00%	1	0.00%	0.00%	0.00%	
35	MORROW ENTERPRISES INC.	0	0	0	46,077,425	0.00%	3	0.00%	0.00%	0.00%	
35	LOBOS STRUCTURES, LLC	0	0	0	3,782,153	0.00%	1	0.00%	0.00%	0.00%	
35	MERCO, INC.	0	0	0	2,849,000	0.00%	1	0.00%	0.00%	0.00%	
35	RAM CONSTRUCTION SERVICES OF MICHIGAN, INC.	0	0	0	1,129,354	0.00%	1	0.00%	0.00%	0.00%	
35	KIRKLAND CONSTRUCTION	0	0	0	41,659,367	0.00%	2	0.00%	0.00%	0.00%	
35	J.D. ABRAMS INC.	0	0	0	47,023,581	0.00%	2	0.00%	0.00%	0.00%	
35	KE&G CONSTRUCTION, INC.	0	0	0	6,744,460	0.00%	1	0.00%	0.00%	0.00%	
35	SOUTHWEST CONCRETE AND PAVING	0	0	0	313,500	0.00%	1	0.00%	0.00%	0.00%	
35	VITAL CONSULTING GROUP, LLC	0	0	0	25,113,183	0.00%	6	0.00%	0.00%	0.00%	

NEW MEXICO MARKET ANALYSIS REPORT

REPORT PARAMETERS	
Date Range	1/20/2017 to 12/18/2020
Category	All Categories
Sorted By	Total Dollars Low
User ID	mmoehn@fisherind.com