

Federal Government Slaps ODOT on Highway 217 Job

Fake minority companies identified in rare victory for construction contracting watchdogs

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The Oregon Department of Transportation has been stung by a landmark ruling by the Federal Highway Administration Office of Civil Rights that found cheating on minority contracting numbers at a Highway 217 construction project last year.

The three-part ruling, dated Aug. 29, says that Salt & Pepper Construction Company, Inc., is not really a Disadvantaged Business Enterprise (DBE) company despite the fact that it was certified as one by the state Office of Minority, Women and Emerging Small Business; that Salt & Pepper colluded with the project's prime contractor,

DBE accounting to "reflect the Salt & Pepper's performance as a DBE on the project and in the overall program;" ODOT must require the OMWESB office to remove Salt & Pepper from its rolls of certified DBE companies; and finally, ODOT must submit its findings to further review by the FHA.

"It's a milestone," said the National Association for Minority Contracting - Oregon Executive Director Melvin Oden-Orr. "The milestone we hope it is, is one that says to ODOT that compliance is important or fraud will run rampant."

ODOT Spokesman Patrick Cooney says that the bureau plans to follow through with the FHA's findings and intends to take steps to correct the problem.

"This is not how this program's supposed to go," Cooney said. "We are in the process of examining step-by-step what happened and why it happened."

He said he couldn't speak to specifics because ODOT itself does not yet have all the information gathered by the federal administrators. "But we have until the end of October," Cooney said.

A spokesman for the FHA declined to name any penalties that might be levied against ODOT because, he said, every case is different, and, "We have no reason to believe that ODOT does not plan to follow through" with the findings, he said.

However he did say that, in general, any agency that fails to follow through with FHA findings faces financial penalties.

Oden-Orr says the penalties are enshrined in federal contracting regulations, and include loss of federal funds.

"Federal Highway should and could pull all the money they have given them - including the money spent on that project,"

Oden-Orr said.

Over the past decade consistent criticisms of ODOT's DBE operations led to a Disparity Study published in 2007, which found that specifically Black and Asian-American-owned firms were "substantially underutilized."

In response to its own study, ODOT established "Hard goals" for Black and Asian participation in its DBE programs; its 2011 update on the Disparity Study made three conclusions:

- 1) Re-instating selective hard goals helped increase construction work awarded to Asian Pacific American-owned businesses.
- 2) There is still substantial disparity in awarding construction work to African American- and Sub-continent Asian American-owned businesses.
- 3) There is substantial disparity in awarding A&E/professional services work for most groups: African American-, Hispanic American-, Sub-continent Asian American-, Native American-, and nonminority women-owned businesses.

"Overall, the findings show support for ODOT to use race conscious DBE goals in specific areas," the study said.

The issue of fraud in DBE certification is a bitter one for local minority contracting companies, who have fought city and state agencies for decades over what they say is the lack of real contract opportunities in public works projects because of open fraud by companies faking minority status.

What makes the FHA finding against ODOT even more interesting is that one of the fraudulently-accredited contractors revealed himself and his illegal activities



Melvin Oden Orr of NAMC- O

during testimony at a Portland City Council meeting.

The company singled out by the FHA, Salt & Pepper Trucking, is this year celebrating its 40th year in business.

According to their website, Salt & Pepper is African American owned and a member of the Oregon Association on Minority Entrepreneurs.

Part of the complaint sent by NAMC-O to the FHA included video of a City Council meeting June 22, 2011, when the Council heard testimony on its Disparity Study.

The first testimony was by a man named

'It's a milestone'

--NAMC-O Executive Director Melvin Oden-Orr

Emery & Sons, and a non-DBE company called Bud Construction LLC to fake minority participation in the highway project; and that ODOT "failed to exercise effective DBE program oversight" in allowing the companies to profit from federal dollars intended for disadvantaged businesses.

The FHA is demanding that ODOT evaluate the implementation of its DBE program and submit a plan of corrective action by Oct. 31 of this year; also ODOT must adjust

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