



June 8, 2023

Orange County Sanitation District
10844 Ellis Ave
Fountain Valley, CA 92708

Via Email: Construction@ocsan.gov

Subject: Bid Protest Statement & response to
Bid Non-Responsiveness Notice

Dear Sirs:

Fasone Construction Inc. received the Bid Non Responsiveness Notice and is submitting this Bid Protest Statement in response to the Notice.

- A. Protestor is Fasone Construction Inc., 9124 Norwalk Blvd, Santa Fe Springs, CA 90670
Office Number is 562-948-3349. Jeanette Fasone cell 562-756-3349.
- B. Project for Protest Statement is Project Nol. P2-127, Collections Yard Relocation and Warehouse Demolition at Plant No. 2.
- C. Action being Protested is OC SAN determination that Fasone Construction Inc.'s bid is Non-Responsive to the IFB.
- D. Affected Parties include:
Fasone Construction Inc.
Archico Design Build, Inc
M.S. Construction Management Group

E. The following statements set for the grounds for the protest:

1. OCSAN Bid Non-Responsive Notice states that "the IFB requires Bidders to subcontract to specialty subcontractor, the work for the design, fabrication and installation of prefabricated metal buildings and canopies."

Fasone disagrees that the installation by a specialty contractor is required by the IFB. The Specification Section 13121-1, Part 1-General, 1.1 Summary (B) (Exhibit A) states

*Prefabricated metal building structures shall be designed by the Prefabricated Building System Manufacturer (**Manufacturer**) as a complete system*

Fasone Construction Inc. will employ **US Patriot Steel** as the manufacturer of the Prefabricated Building System Manufacturer in compliance with the above specification. US Patriot Steel meets all the qualifications referenced in 1.7 Quality Assurance and 1.8 Qualifications of the above referenced Specification.

Fasone Construction Inc. further references The Specification Section 13121-1, Part 1-General, 1.1 Summary (C) and (E)

(Exhibit A) states

(C) Foundation and floor slab design and detailing is included as part of the scope of supply of Prefabricated Building System Manufacturer, and shall be in accordance with project requirements. All Manufacturer design drawings and design calculations shall bear the professional seal and signature of a licensed professional Structural Engineer registered in the state of California. Structural Engineer shall review and incorporate prior geotechnical studies included as reference documents to the contract specifications.

(E) Lighting designs and detailing shall be provided by the General Contractor and lighting/electrical subcontractors, and shall be in accordance with project requirements and CEC Title 24 energy code. All design drawings and design calculations shall bear the professional seal and signature of a licensed professional Engineer registered in the state of California.

Fasone's response to Clarification Request No. 1 was referencing this section. Fasone would work with licensed Engineers and Architects to comply with this section of the Specifications as they relate to the building foundation and lighting. The building manufacturer does not design the foundation as this design will vary depending on usage. Nowhere in our Clarification response did it state that Fasone would design or manufacture the building and therefore any request for this experience is moot. Further, there is no requirement to submit the erectors qualifications with the bid.

Fasone contends that there is nothing stated in the IFB preventing Fasone from self-performing the **erection** of the building as stated in our response to Clarification Request No 1 and submitted the Superintendents qualifications to support this experience. Nothing in the IFB prohibits experience of a Qualified Superintendent to be considered particularly for self-performed scopes. Fasone further submits additional supporting evidence for this qualification as **Exhibit C**. If Fasone is self-performing the erection it would not be necessary to list a subcontractor on form BF-2. All other bidders listed Shook Building Systems, Inc. who are **erectors** of Prefabricated Building Systems and not designers or fabricators of Prefabricated Building Systems. **See Exhibit B**.

The following statement in OC SAN non responsive notice is irrelevant since Fasone never intended to design and manufacture the metal buildings work.

*OC SAN determined that the information provided in your response regarding your firm's qualifications in the BF-4 **and intent to self-perform the metal buildings Work** did not meet to the requirements of the IFB.*

Again, Fasone is not designing or fabricating the metal building. This is being performed by the manufacturer.

Fasone contends that it has complied with BF-4 Performance History and Financial Resources (**see Exhibit D**). Fasone listed projects involving demolition and construction for a public owner. *This section further states "If Bidder has not completed three (3) projects, as described above, Bidder shall list the largest projects (by dollar value) completed.* Projects submitted by Fasone are in the relative range of the Engineer's Estimate for the project. Fasone maintains it has complied with the requirement of BF-4 and therefore responsive.

2. Archico Design Build, Inc. should not be awarded the contract simply because they were not going to self-perform the erection of the metal buildings work. They are not the lowest responsible, responsive bidder.

Further, under Public Contract Code section 1100 establishes the intent and purpose of the code one of which is (b) To insure full compliance with competitive bidding statutes as a means of protecting the public from misuse of public funds.

Also As stated in *Konica Business Machines U.S.A., Inc. v. Regents of University of California*, 206 Cal. App. 3d 449 (1988): The purpose of requiring governmental entities to open the contracts process to public bidding is to eliminate favoritism, fraud and corruption; **avoid misuse of public funds**; and stimulate advantageous market place competition. [Citations, including *Miller v. McKinnon*, 20 Cal. 2d 83, 88 (1942).]

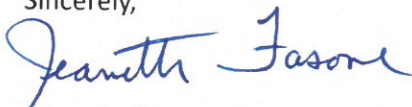
Fasone contends that an award to Archico or any other bidder would result in misuse of public funds to pay \$825,000 more than is necessary for the project when the low bidder is Responsive and Responsible. Such an award would result in overpayment for a project utilizing public funds and therefore fiscally irresponsible. Fasone has approached the project in a manner to offer the best value to the public.

3. RELIEF – Fasone maintains it is Responsive and Responsible bidder and requests that OC SAN rescind its award recommendation to Archico and revise its Award Recommendation to Fasone Construction Inc. based on, “ *As one court explained, a bid is responsive if it promises to do what the bidding instructions demand. A bidder is responsible if it can perform the contract as promised.*” *Taylor Bus Serv., Inc. v. San Diego Bd. of Educ.*, 195 Cal. App. 3d 1331, 1341 (1987).

Fasone has demonstrated its promise to do what the bidding instructions demand and can perform the contract as promised. It is noted that OC SAN has not raised objections to Fasone Construction Inc responsibility.

Bidder certifies under penalty of perjury under the laws of the State of California that all representations herein made are true and correct.

Sincerely,

A handwritten signature in blue ink that reads "Jeanette Fasone". The signature is written in a cursive, flowing style.

Jeanette Fasone, JD

President

Section 13121
METAL BUILDING SYSTEMS

PART 1 - GENERAL

1.1 SUMMARY

- A. Prefabricated metal buildings shall be provided for Warehouse Station A building and canopy area, the Covered Parking Structure in the new Collections Yard, and for Warehouse Station B canopy area.
- B. Prefabricated metal building structures shall be designed by the Prefabricated Building System Manufacturer (Manufacturer) as a complete system. All the components of the building system shall be supplied or specified by the same manufacturer, including but not limited to: metal framing, metal siding, metal roofing, Z-purlins, insulation, and flashing. Other components will be supplied by the General Contractor, including doors and door hardware, rollup doors and electric operators, door frames and trim, louvers, exhaust fans, lighting systems (including fixtures mounted to structure and wired to lighting control panel) concrete anchors, etc. All components shall be installed under the coordination and supervision of the General Contractor and Prefabricated Building System Manufacturer. General Contractor and Manufacturer shall be responsible for coordinating to provide a complete building with appurtenances as indicated and specified.
- C. Foundation and floor slab design and detailing is included as part of the scope of supply of Prefabricated Building System Manufacturer, and shall be in accordance with project requirements. All Manufacturer design drawings and design calculations shall bear the professional seal and signature of a licensed professional Structural Engineer registered in the state of California. Structural Engineer shall review and incorporate prior geotechnical studies included as reference documents to the contract specifications.
- D. Manufacturer shall coordinate with General Contractor for installation of foundations, floor slabs, and fencing and gates for canopy areas.
- E. Lighting designs and detailing shall be provided by the General Contractor and lighting/electrical subcontractors, and shall be in accordance with project requirements and CEC Title 24 energy code. All design drawings and design calculations shall bear the professional seal and signature of a licensed professional Engineer registered in the state of California.
- F. Manufacturer shall coordinate with electrical subcontractor for installation of grounding, electrical service panels, receptacles, access control system hardware and wiring, lighting and connection of power to exhaust fan and rollup doors.

1.2 METAL BUILDING SYSTEM COMPONENTS

- A. Clear span rigid frames.
- B. Minimum clearance at knee as shown on drawings.
- C. Bay Spacing as shown on drawings.
- D. Roof slope $\frac{1}{4}$ inch in 12 inches.
- E. Primary Framing: Rigid frame of rafter beams and columns
- F. Secondary Framing: Purlins, girts, eave struts, flange bracing and other items detailed.

- G. Lateral bracing: Horizontal loads not resisted by main frame action shall be resisted by tension rod or cable and/or diaphragm portal frames in the sidewall and/or in the roof.
- H. Wall and Roof system; Preformed steel panels and accessory components designed to resist wind and seismic loads.
- I. Accessories: Exhaust fan, louvers, doors, hardware, rollup doors.
- J. Foundations: Reinforced concrete foundations shall be provided by contractor. Design shall incorporate all required metal building loads and reactions. Design shall meet required code and utilize the design parameters noted in the California Building Code Chapter 18 for minimum justified design values.

1.3 RELATED SECTIONS

- A. Section 03100 Concrete Formwork
- B. Section 03200 Concrete Reinforcing
- C. Section 03300 Concrete
- D. Section 05120 Structural Steel

1.4 REFERENCES, CODES AND STANDARDS: The following references, codes and standards are hereby made a part of this Section and work shall conform to the applicable requirements therein except as otherwise specified herein or shown on the Drawings. Latest adopted edition of references and codes adopted by the Governing Agency shall apply. Nothing contained herein shall be construed as permitting work that is contrary to code requirements.

- A. AISI S100 *North American Specification for the Design of Cold-Formed Steel Structural Members*
- B. AISC 360 *Specification for Structural Steel Buildings*, American Institute of Steel Construction
- C. ASTM A123, Standard, "Specification for Zinc (Hot-Dip Galvanized) Coatings and Iron and Steel Products
- D. ASTM A153, Standard "Specification for Zinc Coating (Hot-Dip) on Iron and Steel Hardware
- E. ASTM A307, Standard "Specification for Carbon Steel Bolts and Studs, 60,000 psi tensile Strength.
- F. ASTM A325 Standard "Specification for Structural Bolts, Steel, Heat Treated, 120/105 ksi Minimum Tensile strength
- G. ASTM A490 Standard "Specification for Heat Treated Steel Structural Bolts, 150 ksi Minimum Tensile Strength.
- H. ASTM A500 Standard "Specification for Cold-Formed Welded and Seamless Carbon Steel Structural Tubing in Rounds and Shapes.
- I. ASTM A653 Standard "Specification for Steel Sheet, Zinc-Coated (Galvanized) or Zinc-Iron Alloy-Coated (Galvannealed) by the Hot-Dip Process"
- J. ASTM D1494 Standard "Test Method for Diffused Light Transmission Factor of Reinforced Plastic panels.

- K. ASTM E1514 Standard "Specification for Structural Standing Seam Steel Roof panel Systems
- L. ASTM E1592 Standard "Test Method for Structural Performance of Sheet Metal Roof and Siding Systems by Uniform Static Air Pressure Difference"
- M. ASTM E1646 Standard "Test Method for Water Penetration of Exterior Metal Roof Panel Systems by Uniform Static Air Pressure Difference
- N. ASTM E1680 Standard "Test Method of Rate of Air Leakage through Exterior Metal Roof Panel Systems.
- O. AWS D1.1, Structural Welding Code – Steel
- P. AWS D1.3, Structural Welding Code – Sheet Steel
- Q. MBMA, *Metal Building Systems Manual*, Metal Building Manufacturers Association.
- R. SSPC, Paint 20 – Zinc-Rich Primers (Type I, "Inorganic" and Type II "Organic"
- S. UL 580 – Tests for Uplift Resistance of Roof Assemblies.
- T. ACI 318 – Building Code Requirements for Structural Concrete.
- U. ACI 117 – Specification for Tolerances for Concrete Construction and Materials.
- V. California Building Code (CBC) – latest approved edition.

1.5 DESIGN REQUIREMENTS

- A. The Building shall be designed by the Manufacturer as a complete system. All the components of the system shall be supplied or specified by the same manufacturer. Foundation design and detailing is included as part of the project requirements.
- B. Design Code:
Design shall be in accordance with the latest applicable editions of IBC with CBC amendments, Risk Category III.
- C. Energy Code: Latest applicable edition of California Energy Code, Title 24.
- D. Dead Loads
The dead load shall be the weight of the Metal Building System and as determined by the system manufacturer and any sprinkler, mechanical, electrical and ceiling systems.
- E. Live Loads:
The building system shall be capable of supporting a minimum uniform live load of 20 psf, reducible
- F. Wind Loads:
The design wind speed for the metal building system shall be 95 mph, exposure C, Risk Category III.
- G. Seismic Loads:
Seismic load shall be determined based upon the spectral response acceleration factors based on the project location and site class D. Previous geotechnical studies are included as reference documents to these specifications: Geotechnical Evaluation for project J-77.
- H. Deflection Requirements shall be in accordance with the applicable provisions of the specified building code.

I. Thermal Effects:

Standing Seam roof panels shall be free to move in response to the expansion and contraction forces from the temperature variation

Assembly to permit movement of components without buckling, failure of joint seals, undue stress on fasteners or other detrimental effects, when subject to temperature range of 50 degrees F

J. Foundations and Floor Slabs:

Foundations and slab on grades shall be designed in accordance with the geotechnical reports, included as reference information to this specification, and Building Code. Floor slabs shall be designed for 250 psf loading.

1.6 SUBMITTALS:

Note: All Manufacturer design drawings and design calculations shall bear the professional seal and signature of a licensed professional structural engineer registered in the state of California

- A. Submit anchor bolt placement plan, foundation design, reinforcing drawings and embedded items.
- B. Product Data: Provide data on profiles component dimensions, fasteners, and color selection. Provide product data on all doors, rollup doors, louvers, fans, etc.
- C. Manufacturer Installation Instructions: Indicate preparation requirements, assembly sequence, equipment requirements and material storage requirements.
- D. Shop or Erection Drawings: Indicate assembly dimensions, locations of structural members, connections, attachments, openings, cambers, loads wall and roof system dimensions, panel layout, general construction details, anchorages, and method of anchorage, installation framing anchor bolt settings, sizes and locations from datum, and indicate welded connections with AWS welding symbols; indicate net weld lengths and thickness.
- E. Manufacturer and erector qualifications.

1.7 QUALITY ASSURANCE:

- A. Fabricate structural steel members in accordance with MBMA Metal Building Systems Manual, and, for items not covered, AISC – Specification for Structural Steel Buildings.

1.8 QUALIFICATIONS

- A. Manufacturers: The company manufacturing the products specified in the Section shall have a minimum of 5 years' experience in the manufacture of steel building systems. The metal building systems manufacturer shall be accredited under the International Accreditation Service, Accreditation Criteria for Inspection Programs for Manufacturers of Metal Building Systems (AC472). Acceptable manufacturers: Metallic Building Systems, or equal.
- B. Structural Framing, foundations and covering shall be design of a licensed California Civil or Structural Engineer experience in design of this work.
- C. Erector shall have specialized experience in the erection of steel building systems for a period of at least 5 years.

1.9 FIELD MEASUREMENTS

METAL BUILDING SYSTEMS

**Collections Yard Relocation and
Warehouse Demolition at Plant No. 2
Project P2-127
BID SET**

Government Contractors > SHOOK BUILDING SYSTEMS, INC

SHOOK BUILDING SYSTEMS, INC

Mira Loma, California



51-685-2556 x207

442 Parkhurst St
Mira Loma, CA 91752-1434

fax:951-685-6624

[Map & Directions](#)

Products & Services

Manufacturing and Industrial Building Construction, Commercial and Institutional Building Construction and Structural Steel **Erection Contractors**.

Keywords

Metal Buildings

NAICS Code(s)

36210 Industrial Building Construction
36220 Commercial and Institutional Building Construction

Found any discrepancies in your company profile?

[Request to update/remove the information](#)

Company Information

Company Name: SHOOK BUILDING SYSTEMS, INC
Address: 4442 Parkhurst St
City: Mira Loma
State: California
Zip Code: 91752-1434
Phone: 951-685-2556 x207
Fax: 951-685-6624
Contact Person: SANDRA COOPER
Contact Title: Estimator
Legal Structure: Corporation
Year Established: 1972
Business Type: Construction (100 %)

IAW CONSTRUCTION, INC.
Mira Loma, Ca

IAW Const., Inc. is a Gen. Contractor specializing in schools, child care facilities, airports, fire stations, emer. ops centers & other public

STAR 1 MS INC
Mira Loma, Ca

Our company specializes in commercial remodeling and repairs, as well as residential repairs and remodeling. Specializes in custom home construction

IDEAL PRODUCTS, INC.
Mira Loma, Ca

LOCKERS, LAMINATE LOCKERS, WOOD LOCKERS, FURNITURE LOCKERS, ATHLETIC LOCKERS, WARDROBE LOCKERS, GYM LOCKERS, COUNTRY CLUB LOCKERS

RELIABLE CONSTRUCTION SOLUTIONS INC
Mira Loma, Ca

RELIABLE CONSTRUCTION SOLUTIONS INC.

Time And Alarm Systems
Mira Loma, Ca

Commercial and Institutional Building Construction, Electrical Contractors, Other Communications Equipment Manufacturing, Automatic Environmental Control Manufacturing for Residential, Commercial, and Appliance

Alabama Bids

Alaska Bids

Arizona Bids

Arkansas Bids

California Bids

Colorado Bids

Connecticut Bids

Delaware Bids

District of Columbia Bids

Nebraska Bids

Nevada Bids

New Hampshire Bids

New Jersey Bids

New Mexico Bids

New York Bids

North Carolina Bids

North Dakota Bids

Ohio Bids

Florida Bids

Georgia Bids

Hawaii Bids

Idaho Bids

Illinois Bids

Indiana Bids

Iowa Bids

Kansas Bids

Kentucky Bids

Oklahoma Bids

Oregon Bids

Pennsylvania Bids

Rhode Island Bids

South Carolina Bids

South Dakota Bids

Tennessee Bids

Texas Bids

Utah Bids

Louisiana Bids

Maine Bids

Maryland Bids

Massachusetts Bids

Michigan Bids

Minnesota Bids

Mississippi Bids

Missouri Bids

Montana Bids

Vermont Bids

Virginia Bids

Washington Bids

West Virginia Bids

Wisconsin Bids

Wyoming Bids

Exhibit C
2 pages



I Giovanni D'Egidio, co-owner of Hollywood Sports Park have known Phillip Dominguez for over 30 years. During that time, he built numerous amounts of projects for me such as nightclubs and sports parks. Hollywood Sports Park is a state-of-the-art outdoor facility for paintball and airsoft fields. The fields are themed after actual movie set props. There are two steel frame buildings that Phil and his crew built for the park that included pouring the foundation and fire and life safety per city code. If you have any questions, please feel free to reach me at (626)429-4871.

Giovanni D'Egidio



Bid Submitted By: _____
 (Name of Firm)

BF-4 PERFORMANCE HISTORY AND FINANCIAL RESOURCES

A. LIST OF COMPLETED PROJECTS AND EXPERIENCE REQUIREMENTS

Using this form, Bidder shall list at least three (3) projects completed with a public owner or public agencies and/or public utility companies with industrial plant facilities within the past ten (10) years that involved **demolition and construction** of similar nature, scope, complexity and cost to this Invitation for Bids. If Bidder has not completed three (3) projects, as described above, Bidder shall list the largest projects (by dollar value) completed. Bidder may also include any current relevant projects.

Using the table provided in this section, for each listed project, include: (1) the project name and location, (2) role as prime contractor or subcontractor, (3) description of work, (4) owner's name and address and the name and phone number of project manager or project engineer, (5) final contract value, and (6) completion date.

Bidder shall ensure the contact names and numbers are current at the time of Bid. If the contacts are no longer employed with the owner, Bidder shall identify at least one contact familiar with the project and Bidder's work thereon. In addition to contacting the references included herein, OC SAN may, and retains its right to contact other project owners and such other entities for which Bidder has performed or is performing work.

Bidder must submit this information with its Bid. Attach documents directly behind this page and/or fill in the pages provided below.

If the Bidder cannot demonstrate that it has the minimum experience requirements described above, its Bid shall be deemed non-responsive.

Project Name and Location	Role	Description of Work	Owner's Name, Address, Phone No., Project Manager or Project Engineer	Final Contract Value	Completion Date
	<input type="checkbox"/> Prime <input type="checkbox"/> Sub			\$	