

Federal agency finds misuse of DBE program on ODOT project

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(File photo/DJC)

A **Federal Highway Administration** investigation has determined that three Oregon contracting firms worked together to exploit a federal minority contracting program, and the Oregon Department of Transportation never noticed.

The firms – **Bud Construction LLC, Emery and Sons Inc.,** and **Salt and Pepper Construction Co.** – “contrived a relationship” to meet Diversity Business Enterprise program requirements for a \$35 million ODOT project on **Oregon Route 217** that was completed in February, according to FHWA officials.

Emery and Sons used Salt and Pepper’s project involvement, which included supervision of trucking operations, to reach the project’s 6 percent DBE goal. But Bud Construction handled those operations instead, according to the FHWA. As a result, Salt and Pepper’s contribution was nullified, and Emery failed to meet DBE project requirements, the investigation concluded.

“It was pretty obvious what was going on,” FHWA spokesman **Doug Hecox** said. “Everyone around (the project) was pretty up front about it.”

The three firms deny any wrongdoing.

ODOT, however, said it plans to take steps to remove the DBE status of Salt and Pepper and to determine the extent of Emery’s role in the misrepresentation. Additionally, the FHWA is forcing ODOT to re-evaluate its DBE program and submit a plan of corrective action by Oct. 31.

The investigation was spurred by a complaint filed by the National Association of Minority Contractors-Oregon in November 2011.

The group submitted [a letter to the FHWA](#) claiming Salt and Pepper was not performing a “commercially useful function” for the project, citing one DBE regulation – 49 CFR Part 26 – that states subcontractors must be “actually performing, managing and supervising the work involved.”

To justify its claim, the group provided a number of documents, including a transcript of a testimony **Roy Weedman**, owner of Bud Construction, gave to the Portland City Council earlier this year. In the testimony, Weedman admitted that he works with **Adolf Evans**, the owner of Salt and Pepper and a longtime friend, and said, “If I haven’t been with an outfit, Salt and Pepper ... I probably wouldn’t even be in the industry.”

Additionally, he expressed his frustration that he, as a non-minority owner, cannot receive large-project contracts. NAMC-Oregon believes those statements were proof that Weedman uses Salt and Pepper to gain DBE contracts.

“If you look at Mr. Weedman’s City Council testimony, I think you get a sense of his motivation,” said Melvin Oden-Orr, NAMC-Oregon’s general counsel and interim executive director. “Aside from that, I can only speculate as to why Salt and Pepper approached him.”

The FHWA responded to the NAMC-Oregon complaint by interviewing all of the parties involved in the project, even those not mentioned in the group’s accusations. The agency discovered that Salt and Pepper did not manage and supervise the project’s trucking operation; it did not provide any of its own trucks for the project; and it was dependent on

Bud Construction.

The parties involved do not agree with the findings. Weedman admitted that he was the project's "truck boss" – someone who organizes trucking schedules. But he said he didn't get paid for it. Instead, he was paid for providing Salt and Pepper with three trucks that Bud Construction owns, which was within the limits of the contract, he said.

His "truck boss" duties were performed to make sure the project ran smoothly and were a favor to Evans, the owner of Salt and Pepper and a longtime friend, he said.

"I've never been paid for that, and I've been doing this same thing 20 years for (Salt and Pepper)," he said. "I don't know the wording; I've never seen (DBE) rules or regulations. All I do is coordinate that X amount of trucks are coming that day and I'm on the job site to make sure they are in place ... I do it for a friend."

Emery and Sons believed Weedman was acting on behalf of Salt and Pepper – not Bud Construction – during the project. So, the company thought that it was following DBE protocol, according to **Dan Vannoy**, vice president of Emery and Sons.

"There was never a question if it was OK," he said. "Bud Construction wasn't even in the mix; anytime we discussed something with Roy, he was acting as an agent with Salt and Pepper."

Vannoy recognizes that Bud Construction was a part of the project in leasing trucks to Salt and Pepper; however, he still concluded that Weedman was working separately from the company.

When Evans was asked about the investigation, he claimed that he did not know Bud Construction was involved in the project. The project was so long ago that he could not remember exact details, he said.

The chances that Vannoy and Evans were unaware of the regulations being violated are slim, according to **Raleigh Lewis**, a manager with the **Oregon Office of Minority, Women and Emerging Small Business**. Oregon OMWESB was originally named by NAMC-Oregon as being responsible for the violations, but will not face the same penalties as ODOT.

"When you have that kind of money involved, you know what's going on," Lewis said. "Ultimately, somebody has to be responsible."

OMWESB has dealt with the issue a lot lately. In May, the director of the Washington State OMWESB stepped down after a Seattle-area news station exposed fraud in the office's minority and women-owned contracting program. It was discovered that minority contractors were gaining contracts and then having larger, non-minority firms do the work for them.

The real problem lies within the contracting system, according to Weedman. Non-minority owned firms are unable to get big-project contracts, especially trucking ones, he said. And although he claims he did nothing wrong, he believes he will help change the system.

"Come after me; I don't care," he said. "I did nothing more than help (Evans) out. He did nothing wrong. Don't blame him. The system is flawed and it has been for years."

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