



MEMORANDUM

Date: January 23, 2020

To: The Honorable Chairman and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator

A handwritten signature in black ink, appearing to be "CHH", is written over the printed name "C.H. Huckelberry".

Re: **Ina Road Construction and Debris Landfill Phase I Closure – Appeal by Falcone Brothers and Associates, Inc.**

Please see the attached January 22, 2020 memorandum from the Procurement Director discussing this subject. The appeal by Falcone Brothers and Associates, Inc. was based on whether the low bidder had the proper contractor's license to conduct the work.

The Procurement Director's memorandum explains the contractor is able to perform the work and has the proper licensing. The element of temporary fencing as well as the installation of a high density polyethylene culvert drainage pipe are incidental to the contract and can be done in conformance with their license to perform the work as verified by the Registrar of Contractors.

Therefore, the appeal should be dismissed and the contract awarded to the low bidder, Smithco Enterprises, Inc.

CHH/anc

Attachment

c: Jan Leshner, Chief Deputy County Administrator
Mary Jo Furphy, Director, Procurement



MEMORANDUM

Date: January 22, 2020
To: Chuck Huckelberry, County Administrator
From: Mary Jo Furphy, Procurement Director *MJF*
Re: IFB-PO-2000052; Ina Road Construction Debris Landfill - Phase I Closure
Appeal by Falcone Brothers & Associates, Inc.

The purpose of a protest or an appeal of a protest decision is to determine if a solicitation, a recommendation for award, or the contract award itself does not comply with procurement statutes and regulations. A detailed statement of the legal and factual grounds of the protest with copies of relevant documents must be presented, rather than basing it on personal opinions or understandings.

The Procurement Department performed its due diligence, as is our standard practice, in determining that Smithco Enterprises, Inc. is a responsible bidder and provided a responsive bid, as defined by the Pima County Procurement Code, 11.04.030 - Definitions and 11.12.010 - Competitive sealed bidding.

Pima County Code defines a responsive bidder as follows: "A responsive bid conforms with *all* material aspects of the solicitation." If a bid does not conform, it is declared a nonresponsive bid, which is not eligible for award. Smithco's bid in the amount of \$1,299,864.68 was not altered, they acknowledged and incorporated all bid document amendments, they provided all required information and documentation, and therefor was determined to be a responsive bid.

Pima County Code further defines a responsible bidder as follows: "A responsible bidder means a person who has the capability to perform the contract requirements and the reliability and integrity that will assure good faith performance." The contract shall be awarded to a responsible bidder. If it is determined that a bidder does not meet these conditions, they are declared a non-responsible bidder and are not eligible for award.

Once a bid is determined to be responsive and a bidder is determined to be responsible, their bid is eligible to be considered for award. Pursuant to Board Policy D29.2VII., if the requesting department finds the low bid to be unacceptable, a meeting is convened with the requesting department, the County Attorney and procurement staff to make a determination.

In each procurement, the Procurement Department performs due diligence to ensure that the apparent low bidder is a responsive and responsible bidder. Construction project bid documents state that: "The contractor must have the appropriate license issued by the State of Arizona Registrar of Contractors in order to bid and maintain same through the duration of the project." A project overview is provided (**Exhibit A**).

The Procurement Officer reviewed Smithco's A-5 contractor's license in conjunction with the Scope of Work and any subcontracting requirements. Typically, an A-5 licensed contractor may not subcontract work unless to another A5 licensed contractor. Since the scope of work included temporary fencing that was not a permanent part of the project, Procurement contacted the Arizona Registrar of Contractors (AROC) for verification that this license is sufficient to perform the work. AROC confirmed that Smithco may subcontract incidental work, i.e. temporary fencing (**Exhibit B**).

Smithco was therefore determined to be a responsive bidder, their bid was determined to be responsible, their bid is the low bid, and the requesting department found the low bid acceptable. A Notice of Recommendation for Award was issued on December 30, 2019 to all parties recommending contract award to Smithco.

On January 6, 2020, Falcone Brothers & Associates, Inc. (Falcone), who was the second low bidder in the amount of \$1,433,333.33, submitted a protest disagreeing with the recommendation for award asserting that Smithco did not have the correct contractor's license for the project and calling in question their ability to perform work related to concrete, headwalls, masonry, or pipes related to Bid Item #5. On January 9, 2020, the Procurement Director dismissed Falcone's protest (**Exhibit C**).

On January 10, 2020, Falcone requested a meeting with the Procurement Officer to review Smithco's bid submittal. On January 13, 2020, Falcone met with the Procurement Officer and the Project Manager to listen to their concerns and understanding of the project scope specifically related to the scope items that are temporary (**Exhibit D**). Falcone stated that they were in communication with AROC and that based on their response would determine their course of action.

On January 17, 2020, the Procurement Officer contacted AROC to confirm whether Smithco can install the 24" temporary high-density polyethylene (HDPE) culvert drainage pipe referred to in Bid Schedule Item #5. The pipe, similar to the fencing, is temporary/incidental and not permanently installed per the Plans and Specifications and confirmation from the design engineer. AROC confirmed in writing that the described work can be done with the A-5 License (**Exhibit B**).

This appeal should be denied and awarded to Smithco Enterprises, Inc. as recommended.

An electronic copy of the following documents is provided:

- Bid responses from Smithco and Falcone
- Bid tabulation
- Bid documents including amendments
- Plans and Specifications

If further information documents or information is required, the Procurement Department will be happy to provide.

C: Jan Leshner, Chief Deputy County Administrator
Carmin DeBonis, Deputy County Administrator for Public Works
Nancy Cole, Project Management Office Director
Ursula Nelson, Department of Environmental Quality Director

Exhibit A

(1 page)

IFB-PO-2000052 Ina Road Construction Debris Landfill Phase 1 – Closure Project Overview

Project Scope:

Close the existing Ina Road Construction Debris Landfill.

The County is closing the landfill in accordance with environmental regulations in order to protect public health and the environment. In addition, closure will allow adaptive re-use of the landfill surface. Closure requirements include the importation of soil to form a three foot protective cover. In an effort to reduce closure costs, County intends to take advantage of extra fill available from the nearby Cal Portland site to provide the cover soil.

Project History:

County hired Tetra Tech BAS, Inc. (CT-DE-18-330) for Design Engineering Services to complete the last landfill permit modification and development work for the final closure plans. This included providing a complete updated landfill closure set of plans and cost estimate in 2019.

In early 2019, the estimated cost to complete a full closure exceeded the current available remaining General Obligation Bond funds. DEQ requested the Consultant complete a two (2) phase approach:

- Phase 1 – shift on-site material so that the contours match the intended "drainage shedding final profile". The Profile would be several feet below final elevation and use on-site stockpiled dirt for the required 1 foot of operational cover on the landfill (operational cover meaning the landfill would not yet be closed). Phase 1 would create a regular shape and provide the necessary drainage features to manage stormwater at the landfill which may reduce and eliminate unknowns for Phase 2.
- Phase 2 – Final Closure Work to include placing the final cover per ADEQ specifications (a three (3) foot thick soil cover on top of the Phase 1 final surface.) Phase 2 also includes permanent fence, completed drainage basins, completed drainage system including concrete headwalls, outlets and trash rack, and final erosion control measures on the surface.

Using this phased approach, it expedites the use of the final Solid Waste GO Bonds (necessary to avoid arbitrage fees). Phase 2 Final Closure work will be planned when County has funds available.

IFB-PO-2000052; Ina Road Construction Debris Landfill Phase 1 – Closure (2INARD):

IFB-PO-2000052 published on 11/6/2019 and included Plans and Specifications. The IFB indicated bids were due 12/3/19. Three (3) Amendments were issued for clarifications, questions, and included two (2) bid extensions to 12/17/19.

Included in the Plans and Specifications for Phase 1:

- Specification Section A01025 indicates the required level work necessary for each item in the bid list.
 - This specification section clarifies the fencing is to remove the existing fencing and replace with a temporary fence. Further, it references the temporary fence as being a rented item and the County may need to extend the rental period after the work is completed.
 - This specification section clarifies the HDPE drainage pipe does not have any associated concrete or concrete header wall to be installed in Phase 1.
 - Several sheets in the Plans call out rip rap outlets only. There are some final closure details within the Plan Set that may have caused confusion if the Specification Section A01025 were not read and understood by the bidder.
 - There were no Specification Sections that provided any concrete or permanent fencing referenced in the plans.

Exhibit B

(7 pages)

From: [Steven Nelsen](#)
To: [Matthew Sage](#)
Cc: compliance@roc.az.gov; Terri Spencer; theresa.cusick@roc.az.gov
Subject: Re: IFB-PO-2000052; Ina Road Construction Debris Landfill - Phase I Closure
Date: Friday, January 17, 2020 3:08:04 PM
Attachments: [image001.png](#)
[image002.png](#)

This message and sender come from outside Pima County. If you did not expect this message, proceed with caution. Verify the sender's identity before performing any action, such as clicking on a link or opening an attachment.

Good Afternoon Matt-

Yes, the work you described can be done with the A-5 License.

Regards,

Steve Nelsen
Asst. Chief of Investigations
AZ Registrar of Contractors
1700 W Washington St, Suite 105
Phoenix, AZ 85007
Ph: 602-771-6760
Cell: 602-540-6368

Email: Steve.Nelsen@roc.az.gov

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On Fri, Jan 17, 2020 at 4:04 PM Matthew Sage <Matthew.Sage@pima.gov> wrote:

Hello,

We have a follow-up question to the email string below and request an additional clarification related to the above referenced project relative to an A-5 License.

As mentioned previously, the Apparent Low Bidder, SmithCo, Inc. has an A-5 License. Included in this project, Bid Schedule Item No. 5, is a 24" Culvert Pipe. This pipe is a temporary high-density polyethylene (HDPE) drainage pipe. The pipe, similar to the fence indicated below, is temporary / incidental and not permanently installed. Per the Plans and Specifications and confirmation from the design engineer, the pipe is not permanently imbedded in concrete/rip-rap, and concrete headwalls will not be installed until the Final Phase. Since the elevations may change during the

construction of the Final Closure of the Landfill, it is unknown as to where the pipe should be permanently placed, therefore this is a temporary pipe for drainage purposes until the Final Closure.

Based on the response in the emails below, we understand the A-5 license can perform temporary/incidental work. Per the License Classification, the A-5 license also allows 1. Digging, 2. Trenching, 3. Grading, 4. Horizontal Boring, 5. Compacting, and 6. Filling. The Contractor, SmithCo, would dig and/or trench for placement of the pipe, and move, alter or repair (stabilize) earthen materials for placement.

Please confirm an A-5 license is suitable for this work.

Thank you!

Matt

Matt Sage, CPPB

Procurement Officer - Design and Construction

Pima County Procurement Department

130 W. Congress, 3rd Floor

Tucson, AZ 85701

(520) 724-8586

From: Terri Spencer <Terri.Spencer@pima.gov>

Sent: Friday, December 27, 2019 12:00 PM

To: 'Compliance Department LIC - AZROC' <compliancedepartmentlic@roc.az.gov>

Cc: Matthew Sage <Matthew.Sage@pima.gov>

Subject: RE: IFB-PO-2000052; Ina Road Construction Debris Landfill - Phase I Closure

Many thanks, Steve. This is very helpful.

Happy new year to you!

Terri

Terri Spencer, C.P.M. | Division Manager

Pima County Procurement Department | Design & Construction Division

130 West Congress Street, 3rd Floor | Mail Stop DT-AB3-126

Tucson, AZ 85701

Phone: 520-724-3722 | Fax: 520-222-1484

From: steve.nelsen@roc.az.gov <steve.nelsen@roc.az.gov> **On Behalf Of** Compliance Department

LIC - AZROC

Sent: Friday, December 27, 2019 10:58 AM

To: Terri Spencer <Terri.Spencer@pima.gov>

Subject: Re: IFB-PO-2000052; Ina Road Construction Debris Landfill - Phase I Closure

This message and sender come from outside Pima County. If you did not expect this message, proceed with caution. Verify the sender's identity before performing any action, such as clicking on a link or opening an attachment.

Terri-

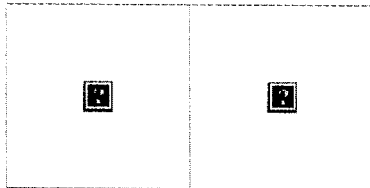
My apologies. Yes, they can sub contract incidental work, ie temporary fence.

Kind Regards,

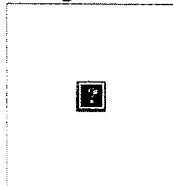
ROC Compliance Department.



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Make sure to follow us on:



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On Fri, Dec 27, 2019 at 12:56 PM Terri Spencer <Terri.Spencer@pima.gov> wrote:

Steve,

We appreciate your response concerning the Contractor's ability to perform the contracted services with these particular licenses; however, the question remains as to whether a

contractor with an A-5 license may subcontract to a subtrade, i.e temporary fencing installer.

Please advise asap.

Thank you,

Terri Spencer, C.P.M. | Division Manager

Pima County Procurement Department | Design & Construction Division

130 West Congress Street, 3rd Floor | Mail Stop DT-AB3-126

Tucson, AZ 85701

Phone: 520-724-3722 | Fax: 520-222-1484

From: steve.nelsen@roc.az.gov <steve.nelsen@roc.az.gov> **On Behalf Of** Compliance
Department LIC - AZROC

Sent: Friday, December 27, 2019 10:28 AM

To: Matthew Sage <Matthew.Sage@pima.gov>

Cc: licensing@roc.az.gov; Terri Spencer <Terri.Spencer@pima.gov>

Subject: Re: IFB-PO-2000052; Ina Road Construction Debris Landfill - Phase I Closure

This message and sender come from outside Pima County. If you did not expect this message, proceed with caution. Verify the sender's identity before performing any action, such as clicking on a link or opening an attachment.

Good Morning Matthew-

The Registrar must remain impartial when reviewing requests such as this. Below are the two types of licenses that may be able to do the work described, please seek advice from your legal counsel as to the applicability of the licensee.

A-GENERAL ENGINEERING

This classification allows the licensee to construct or repair:

1. Fixed works
2. Streets
3. Roads
4. Power and utility plants
5. Dams
6. Hydroelectric plants
7. Sewage and waste disposal plants
8. Bridges
9. Tunnels
10. Overpasses
11. Public parks
12. Public right-of-ways

Also included are the scopes of work allowed by the A-4 through A-19. This classification does not include

work authorized by the B-1, B-2, B- or B-3 scopes.

A-5 EXCAVATING, GRADING AND OIL SURFACING

This classification allows the licensee to apply oil surfacing or other similar products; place shoring, casing, geotextiles or liners; and perform incidental blasting or drilling as required for the licensee to move, alter, or repair earthen materials by:

1. Digging
2. Trenching
3. Grading
4. Horizontal boring
5. Compacting
6. Filling

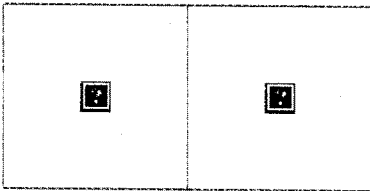
This license does not allow the licensee to excavate for water, gas or oil wells.

Kind Regards,

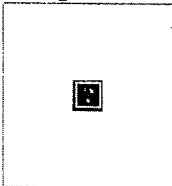
ROC Compliance Department.



The ROC is now on social media!
Make sure to follow us on:



Fill out AZ ROC's survey to let us know how we're doing and how we can better serve you!



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On Fri, Dec 27, 2019 at 11:44 AM Matthew Sage <Matthew.Sage@pima.gov> wrote:

Good Morning,

Per my voicemail, I'm following up on my email below regarding the Apparent Low Bidder, SmithCo Enterprises, Inc. (License #094362) for the above referenced project. Also, I have been provided additional information that they will have a Subcontractor, American Fence Company (License #103476), install temporary fence for the project duration. Is having a subcontractor, in this case, American Fence Company, allowable under their license for installation of temporary fence?

Thank you,

Matt

Matt Sage, CPPB

Procurement Officer - Design and Construction

Pima County Procurement Department

130 W. Congress. 3rd Floor

Tucson, AZ 85701

(520) 724-8586

From: Matthew Sage

Sent: Wednesday, December 18, 2019 11:05 AM

To: 'licensing@roc.az.gov' <licensing@roc.az.gov>

Cc: Terri Spencer <Terri.Spencer@pima.gov>; 'compliancedepartmentlic@roc.az.gov' <compliancedepartmentlic@roc.az.gov>

Subject: IFB-PO-2000052; Ina Road Construction Debris Landfill - Phase I Closure

Good Morning,

We opened bids from Contractors yesterday for the above referenced Solicitation. The Apparent Low Bidder, SmithCo Enterprises, Inc. (License # 094362) has a General Commercial A-5 Excavating, Grading, and Oil Surfacing license. Please confirm this license is applicable for this type of work. Also, please confirm that a Contractor with this license may not utilize a Subcontractor. Included below is the Broad (Section 1.05) and Narrow (Section 1.06) scopes of work from the Specifications included with the Bid Documents (IRCL – Ina Road Construction Debris Landfill):

Please let me know if you have any questions or need additional information. We look forward to your response.

Thank you,

Matt

Matt Sage, CPPB

Procurement Officer - Design and Construction

Pima County Procurement Department

130 W. Congress, 3rd Floor

Tucson, AZ 85701

(520) 724-8586

Exhibit C

(3 pages)



PIMA COUNTY PROCUREMENT DEPARTMENT
130 W. CONGRESS ST., 3RD FLOOR, TUCSON, AZ 85701-1207
PHONE: (520) 724-8161 FAX: (520) 222-1484

Mary Jo Furphy
Procurement Director

Via Email:

ziotano@aol.com

falconebrothers1@gmail.com

January 9, 2020

Mr. Gaetano "Tom" Falcone
Falcone Brothers & Associates, Inc.
15885 N. Equestrian Trail
Tucson, AZ 85739

RE: Protest of Recommendation for Award
Solicitation No. IFB-PO-2000052 Ina Road Construction Debris Landfill Phase 1 – Closure
(2INARD)

Dear Mr. Falcone,

On January 6, 2020, I received your letter protesting the Notice of Recommendation for Award of Solicitation No. IFB-PO-2000052 Ina Road Construction Debris Landfill Phase 1 – Closure issued on December 30, 2019, naming Smithco Enterprises, Inc. as the Awardee.

The basis of your protest is that you disagree with Smithco being recommended for award as they do not have the correct contracting license for the project. You acknowledge that Smithco holds an A-5 excavating, grading and oil surfacing license. This classification allows the licensee to apply oil surfacing or other similar products; place shoring, casing, geotextiles or liners; and perform incidental blasting or drilling as required for the licensee to move, alter, or repair earthen materials by: 1. Digging 2. Trenching 3. Grading 4. Horizontal boring 5. Compacting 6. Filling. This license does not allow the licensee to excavate for water, gas or oil wells. You assert that under this license, the contractor is unable to subcontract out or self-perform any concrete, headwalls, masonry, or pipes related to bid schedule Item #5. The remedy you seek is that Smithco's bid should be forfeited due to the fact they do not have the correct license to perform all work as they are not able to subcontract out any portion of this project.

As a part of our bid review process, Pima County did research and consulted on the ability of Smithco to perform the necessary work under their A5 license concerning Bid Item #5 and found that there is no concrete, headwalls, or masonry in Phase 1 of this project. The splash pads are rip rap to reduce erosion, and the pipe that will be installed is a temporary high-density polyethylene (HDPE) drainage pipe. SmithCo's A-5 license allows them to dig and/or trench for placement of the pipe and move, alter or repair (stabilize) earthen materials. The concrete and headwall will be part of the final closure (Phase 2). With that said, there is concrete work shown on the Plans (page 14 of 16) for "Final Cover" and for the "Trash Rack Per MAG 502-2"; however, this again is for Final Closure (Phase 2) and not included in Phase 1. Further, the specifications do not include any information related to concrete work as shown in the Plans and neither the plans nor the specifications referenced the PAG

Mr. Gaetano "Tom" Falcone
Falcone Brothers & Associates, Inc.
January 8, 2020
Page Two

Standard Specification that would have included a specification for concrete work. Lastly, no questions or clarification requests were raised while the Solicitation was advertised related to this work.

Concerning subcontracting, Smithco identifies one subtrade for temporary fencing. While we agree that for a commercial, residential, or public right of way project, contractors may only subcontract to other contractors who hold the same license classification or one that is included in the scope of work of their license. However, we confirmed with the Arizona Registrar of Contractors that Smithco may subcontract incidental work, i.e. temporary fencing that does not become a permanent part of the project.

Based on my review, the bid submitted by Smithco Enterprises, Inc. stands as a responsive bid. Pursuant to Pima County Procurement Code 11.20.010.E (1), I have determined that the protest does not state a valid basis for protest. Therefore, your protest is dismissed.

You may appeal this decision to the Board of Supervisors by filing an appeal with the Clerk of the Board within five business days of the date of this written decision pursuant to Pima County Procurement Code Section 11.20.010.H. If you file an appeal with the Board of Supervisors, the Board will consider the protest at a regularly scheduled meeting within 30 days of this decision. The Board may, with or without a hearing, either accept the decision or determine an appropriate remedy.

Sincerely,



Mary Jo Furphy, CPPC
Procurement Director

Attachment: Falcone Brothers & Associates, Inc. protest letter dated January 6, 2019 (1 page)

- c: T. Spencer, Design & Construction Division Manager
- M. Sage, Procurement Officer
- N. Cole, Manager, Project Management Office
- Stacey Roseberry, Deputy County Attorney
- Interested Parties



FBAI Falcone Brothers
& Associates, Inc.

15885 N Equestrian Trail • Tucson, AZ 85739 • "A" Lic. 143810
Office: (520) 825-1072 • Mobile: (520) 780-2385 • Fax: (520) 825-3002

Pima County Procurement Dept.
130 W. CONGRESS ST., 3RD FLOOR,
TUCSON, AZ 85701-1207

January 6, 2020

Attn: Mary Jo Furphy
Pima County Procurement Director

Re: IFB-PO-2000052; INA ROAD CONSTRUCTION DEBRIS LANDFILL PHASE 1 – CLOSURE
(2INARD)

Dear Mrs Furphy,

Falcone Brothers and Associates, Inc. (FBAI) has received a copy of the letter for notice of award on Friday January 3rd via email. FBAI is sending this letter in response to protest this award under the following reasons.

SmithCo. Enterprises Inc. Does not have the correct Contracting license to be a general contractor on this project as they have an Arizona registrar of contractors license classification of A5. Which CLEARLY shows that they are only allowed to do the following **A-5 EXCAVATING, GRADING AND OIL SURFACING**. This classification allows the licensee to apply oil surfacing or other similar products; place shoring, casing, geotextiles or liners; and perform incidental blasting or drilling as required for the licensee to move, alter, or repair earthen materials by: 1. Digging 2. Trenching 3. Grading 4. Horizontal boring 5. Compacting 6. Filling. This license does not allow the licensee to excavate for water, gas or oil wells.

Under this License the contractor is unable to subcontract out or self preform any concrete , headwalls, masonry, or pipes related to bid schedule Item #5.

At this time Falcone Bros & Associates Inc feels that Smithco Enterprise's Inc bid should be forfeited due to the facts they do not have the correct license to preform all work as they are not able to subcontract out any portion of this project .

Under the Bid documents #13. ARIZONA CONTRACTOR'S LICENSE

The contractor must have the appropriate license issued by the State of Arizona Registrar of Contractors in order to bid and maintain same through the duration of the project. Failure to have the appropriate license at the time of bid opening may result in rejection of the bid without further recourse and award of the contract to the next low responsive, responsible bidder. FBAI Being the next responsive bidder should be awarded this project as we have met ALL criteria for this Bid Advertisement.

FBAI

1/6/2020

Ltr. To Mrs Mary Jo Furphy
IFB-PO-2000052

Please contact me at 520-780.2385 should you have any questions, require additional information.

Sincerely,

Tom Falcone

Gaetano "Tom" Falcone

Exhibit D

(1 page)

IFB-PO-2000052 Ina Road Construction Debris Landfill Phase 1 – Closure Falcone Meeting Summary

On January 13, 2020, Nancy Cole (N. Cole) Project Management Office and Matthew Sage (M. Sage) Procurement Department met with Gaetano Falcone (G. Falcone) and Anthony Falcone (A. Falcone) at 130 W. Congress, 3rd Floor, Large Procurement Conference Room to discuss the Protest received for IFB-PO-2000052 Ina Road Construction Debris Landfill Phase 1 – Closure. Below is a summary of the items discussed:

- A. Falcone completed a Public Records Request and was provided the Bid Tabulation, Subcontractor List and Responsibility Information for SmithCo.
- An overview of the Ina Road Landfill Project including the scopes for Phase 1 and Phase 2 was provided by N. Cole.
- G. Falcone inquired as to how SmithCo was able to complete the work with an A-5 license, specifically related to subcontracting work and self-performing concrete, headwalls, masonry, or pipes related to Bid Item #5.
 - N. Cole and M. Sage reviewed the plans with the G. Falcone for an understanding of the questions raised. N. Cole provided information that was found in the Specifications related to the questions raised regarding the Plans.
 - M. Sage confirmed that Falcone had received the Plans, Specifications, and three (3) Amendments for the Solicitation.
- G. Falcone inquired as to how SmithCo was able to subcontract the work with an A-5 license and how were they able to meet the Small Business Enterprise (SBE) Goal of two percent (2%).
 - SmithCo provided the assurance to meet the SBE goal of 2% with its bid. Based on the information provided on the Subcontractor List, M. Sage confirmed the goal was met utilizing Darling Geomatics (SBE) for survey services. Darling is a Technical Registrant and not a "Subcontractor" and may be contracted with SmithCo for survey services.
 - M. Sage and N. Cole concurred with G. Falcone that per SmithCo's license, they do not have the ability to subcontract work unless to another A5 licensed contractor or if the work is deemed temporary/incidental. M. Sage had previously confirmed with the Arizona Registrar of Contractors (AROC) that the work to be completed by American Fence Inc. was temporary/incidental. G. Falcone disagreed and indicated SmithCo was unable to subcontract the work for the fencing.
 - G. Falcone also indicated SmithCo was not able to install the pipe as called for in Bid Item #5. N. Cole reviewed the Plans and Specifications with G. Falcone related to this item and provided clarification that this was a temporary pipe. N. Cole and M. Sage agreed that although the Plans do not specifically state the pipe is temporary, the information provided for this bid item both in the Plans and Specifications indicate that it is temporary (i.e. the pipe is not permanently imbedded in concrete/rip-rap, and the construction headwalls will not be installed until the Final Phase). In addition, it was conveyed again this bid was for Phase 1 of the project and that since the elevation may change during Final Closure of the landfill, it is unknown where the pipe should be permanently placed. N. Cole and M. Sage also indicated that no specifications were provided for permanent installation of the pipe and that no additional questions were raised specifically for this line item.
- G. Falcone indicated that he was in communication with AROC and that based on their response would determine their course of action.
- M. Sage and N. Cole informed G. Falcone and A. Falcone of the timeline (i.e. an appeal must be filed with the Clerk of the Board no later than 5:00 pm on January 16th or the Contract would go before the Board for award to SmithCo on January 21st.)