



Spencer Fane Team Secures \$5.196 Million Construction Contract

A Spencer Fane team, led by attorneys [Aaron Dean](#), [Johanna Hyman](#), and [Jeff Wieland](#), helped secure a \$5.196 million contract award to reconstruct a county highway near Northfield, Minnesota, on behalf of ICON, LLC.

The firm's client, ICON, LLC, was the low bidder on a Rice County, Minnesota, road reconstruction project. After submitting the bid, ICON, LLC was directed to submit Disadvantaged Business Enterprise (DBE) information to the Minnesota Department of Transportation (MnDOT) and its Office of Civil Rights and Rice County.

After receiving DBE information, MnDOT and Rice County questioned whether certain DBE submittals were missing. When rejected, the road and utility contractor immediately called the Spencer Fane construction team in Minneapolis.

Aaron, Johanna, and Jeff mapped out a strategy to secure the contract award by providing a written analysis to MnDOT and Rice County. The team also worked with MnDOT's leadership, MnDOT's Office of Civil Rights, and the Rice County Engineer to outline ICON, LLC's strengths for the proposed project and to explain that there was no discretion except to award the contract to ICON, LLC.

Competitive bid procurements are designed to ensure taxpayers receive the best benefit for the bargain, prevent fraud and favoritism in the award of public construction contracts, and ensure bidders receive the opportunity to compete on an equal playing field for the award of public construction contracts.

Minnesota, like most states, has competitive bid statutes that prohibit steering of contracts and requiring contract award to the lowest, responsive, and responsible bidder. Competitive bidding statutes can be enforced with both administrative and

judicial protests by bidders and taxpayers.

Competitive bidding statutes are enacted to eliminate discretion by government employees regarding government contract awards and require contract awards to the lowest, responsive, and responsible bidder. Post-bid opening challenges to a bidder's responsibility or capacity to perform a contract are becoming more common as public entities and engineers sometimes try to steer contract awards to preferred vendors. Bidders need to understand their rights and the public owner's statutory obligations in order to challenge any bid rejection.

This is just one of several recent projects handled by the firm's Minnesota-based construction team; the group has also secured contract awards of \$6.4 million and \$3.4 million and stopped bid rejections on five different public construction projects over the last two months.