

CONSTRUCTION

Since **COMPANY** 1914

January 30, 2014

Department of Transportation
Division of Engineering Services
Office Engineer, MS 43
1727 30th Street
Sacramento, CA 95816

Attention: Mulissa Smith

Re: Bid Protest by Gordon N. Ball

Reference Contract No. 04-1A2904

Ms Smith,

This letter is in response to the bid protest submitted by Gordon N. Ball (GNB) for the referenced contract.

The goal on this project was 10%. GCC made 58.12% of work available.

None of the 3 low bidders met the DBE goal. Given the type of work involved in this project (remove existing concrete bridge structure & replace with new concrete bridge structure) it would have been difficult for any contractor to obtain 10% DBE participation. However, in an effort to achieve the DBE goal, GCC advertised for and made available all of the structural concrete/bridge items of work.

The protestor is correct in one sense. GCC does follow a 'pro-forma' or formulaic approach when performing good faith efforts and outreach. This is done with great intentionality and specificity to produce the desired results: a well considered, well thought out method for identifying and outreaching to minority firms per Caltrans guidelines.

Item 1

GNB's allegation that GCC had a lack of follow through and concern immediately prior to bid submission is false. GCC consistently and specifically employs at a minimum the following three methods of outreach:

GCC always utilizes the Caltrans Opt-In link when performing minority outreach. We continually reference the Opt-In link throughout the bid / outreach time frame including immediately upon becoming aware of the project, and additionally at reasonable intervals up until bid date. Due to bid date changes, the opt-in database for this project was

— Engineering Contractor —

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accessed / searched multiple times during the bid window including immediately prior to bid date. Follow-up phone calls were made to the various minority firms that had opted in.

Secondly, all paid advertisements including dbegoodfaith.com were extended each time the bid date was postponed to ensure minority firms were notified of the changes. Dbegoodfaith.com also re-sent notices and made follow up phone calls multiple times during the bid window.

Lastly, GCC in house efforts always include utilizing the Caltrans DBE and MBDA databases to search for and solicit minority firms. GCC sends solicitation notices via email, fax or US mail to each firm and performs follow up phone calls to determine interest by minority firms. Upon notification of bid date changes via addenda, notices were re-sent using processes stated above. DBE firms identified through all available and reasonable means were contacted multiple times throughout the outreach process up until and including immediately prior to final bid date of 1/8/14.

GCC utilized all of these efforts to ensure initial, intermediate and final contact was made to all available DBE firms.

ITEM 2

In Tab #3 (items of work made available), GCC made \$78,900 of trucking available. This number represents the total value of trucking dollars in our estimate. GCC did in fact commit to a DBE trucking firm on the DBE commitment form, the value of which was \$48,229.09. While R & S Trucking is a DBE firm with numerous company-owned trucks, they do often augment / supplement their own fleet with outside truckers, some of which are not certified DBEs. Because we are aware of this reality and due to past experience, GCC does not want to over-commit by committing 100% of the trucking dollars in our estimate to R & S. The reasoning would be as follows: if we commit to 100% of the trucking dollars in our estimate and during the course of construction R & S Trucking uses outside non-DBE trucks, we would then be in a condition of having overstated our committed dollars. GCC's desire is to be forthright with Caltrans and avoid an overstated DBE commitment.

ITEM 3

In Tab # 3, Caltrans can clearly see in the attached spreadsheet, ample work was made available including the bridge structure itself. Even though the bridge structure is the controlling item of work on this project, GCC made it available in an effort to meet the goal. As shown on the DBE commitment form, GCC did list WCBS for the purchase of temporary fence and pipe. Additionally, there are no local DBE asphalt paving and aggregate base suppliers as the protestor would lead you to believe.

ITEM 4

GCC was successful in identifying DBE firms some of which indicated they would quote the project. However, not every firm that indicates a 'Yes Bid' actually submits a quote. The protestor's statement that GCC rejected 15 firms is inaccurate. For example, GCC used R & S Trucking, a DBE firm, instead of Roby's Trucking. Simply put, the protestor has no knowledge of what quotes were actually received by GCC on the day of the bid.

ITEM 5

As stated above, a 'Yes bid' answer in a phone log does not mean a quote was ever generated by the minority firm and received by GCC.

Shotka was rejected for CAS item #4 which was a difference of \$2,000.

Selby's Soil was selected for Erosion Control because their scope was complete. DBE firms that quoted this scope of work were either not complete or not competitive. Selby's quote was complete and included all subordinate items of the erosion control package. The protestor makes an attempt to cherry-pick the erosion control subordinate items and in this way paint GCC as inequitable, stating that some subordinate items on their own were low. In fact, while some individual items of the erosion control package were less than Selby's, the total package dollars made the DBE quotes considerably higher. It is also true that not all DBE firms for this scope quoted all items of work.

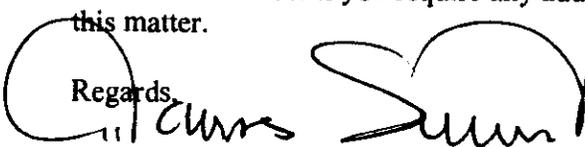
The protestor misrepresents the facts by stating that GCC failed to take on additional minimal costs to obtain DBE participation. As shown in the table below, the dollar differentials are, in fact, significant:

Item of Work	Selected Firm	Total Package (Bid Item Nos. 89-96)	Rejected Firm	Item Nos. Bid	Total	Price Difference
Erosion Control	Selby's Soil	\$79,102.70	Nitta Erosion Control	89-96	\$141,054.00	\$61,951.30
			J & M Land Restoration	89-96	\$97,716.40	\$18,613.70
			Superior Hydroseed	89-94 (incomplete)	\$109,103.25	\$30,000.55

In summation, the protestor's allegations are based on assumptions and supposition regarding information of which they have no knowledge. Historically, GCC has consistently shown diligence in applying detailed efforts associated with good faith efforts as required by the department. The same is true for the effort, specificity and intentionality that were used to identify minority firms for this project.

Please let me know if you require any additional information. Thank you for considering this matter.

Regards,


Thomas Smith
Ghilotti Construction Company, Inc.

1. List items of work the bidder made available to DBE firms. Identify those items of work the bidder might otherwise perform with its own forces and those items that have been broken down into economically feasible units to facilitate DBE participation. For each item listed, show the dollar value and percentage of the total contract. It is the bidder's responsibility to demonstrate that sufficient work to meet the goal was made available to DBE firms.

Ghiloti Construction Company, Inc.

Contract No. 04-1A2904

Bid Date: 1/8/14

DBE Goal: 10%

Total Bid: \$7,418,001.00

Item of Work Offered	Bidder Normally Performs	Item Broken Down to Facilitate Participation (Y/N)	Amount (\$)	Percentage of Contract
CAS	N	Y	\$10,000.00	0.13%
Traffic Control System	N	Y	\$25,000.00	0.34%
Bridge Removal	N	Y	\$120,000.00	1.62%
Clear & Grub	N	Y	\$25,000.00	0.34%
Planting & Irrigation	N	Y	\$119,090.00	1.61%
Rolled Erosion Control Product	N	Y	\$13,300.00	0.18%
Hydromulch	N	Y	\$2,900.00	0.04%
Fiber Rolls	N	Y	\$19,320.00	0.26%
Straw	N	Y	\$3,090.00	0.04%
Hydroseed	N	Y	\$14,500.00	0.20%
Compost	N	Y	\$16,500.00	0.22%
Jointed Plain Concrete Pavement	N	Y	\$13,750.00	0.19%
Furnish Piling	N	Y	\$186,450.00	2.51%
Drive Pile	N	Y	\$145,700.00	1.96%
Furnish / Drive 48" Cast-in-steel shell	N	Y	\$756,200.00	10.19%
Seal Course Concrete	N	Y	\$85,600.00	1.15%
Structural Concrete-Bridge, Retaining Wall, Approach Slab	Y	Y	\$1,282,700.00	17.29%
Furnish/Erect Prestressed Concrete Girder	N	Y	\$340,800.00	4.59%
Bar Reinforcing Steel	N	Y	\$689,625.00	9.30%
MBGR	N	Y	\$32,400.00	0.44%
Tubular Bicycle Railing	N	Y	\$41,800.00	0.56%
Concrete Barrier	N	Y	\$225,000.00	3.03%
Thermoplastic Striping & Pavement Markings	N	Y	\$32,000.00	0.43%
Lighting	N	Y	\$23,000.00	0.31%
Modify Signal & Light	N	Y	\$8,500.00	0.11%
Trucking	N	Y	\$78,900.00	1.06%

Total Dollars / Percentage Available:

\$4,311,125.00 58.12%

Note:

GCC encouraged DBE subcontractors and suppliers to bid complete or partial scopes on all items offered above.