

**Main Office**

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Via Facsimile (916) 227-6282

March 16, 2016

State Of California
Department Of Transportation
1727 30th Street, Bidder Exchange, MS 43
Sacramento CA 95816-8041

Attn: Jeff Fefevere, Office Chief, Office Engineer, Construction Contract Awards

Re: Contract No. 08-0Q3004
Route 138, Near Hesperia
BID PROTEST

Gentlemen:

Please consider this letter to be a formal protest of the bid submitted by Skanska USA Civil West, the apparent low bidder in connection with Contract No. 08-0Q3004. MCM Construction, Inc. is the second lowest bidder.

Revised Standard Specification Section 2-1.12B(2), DBE Commitment Submittal, states "*Submit a copy of the quote from each DBE shown on the DBE Commitment form that describes the type and dollar amount of work shown on the form.*"

Skanska's DBE Commitment form identifies Tahlequah Steel as a subcontractor to the listed rebar subcontractor, Gerdau Reinforcing Steel, for the furnishing and placing of a portion of Item 84, Bar Reinforcing Steel (Bridge) in the amount of \$283,442 or 1.33% of Skanska's bid. Skanska did not submit a quote from Tahlequah Steel, as required, but instead submitted a quote from non-DBE Gerdau Reinforcing Steel.

The DBE Commitment form instructions state "*If 100% of an item is not performed or furnished by the DBE describe the exact portion of the item to be performed or furnished*". Skanska identified Tahlequah's work as a partial of Item 84, Bar Reinforcing Steel (Bridge), which consists of furnish and place bridge rebar, but failed, as required, to describe the exact portion of Item 84 that Tahlequah would perform.

Given that Skanska failed to describe the exact portion of the bridge rebar to be furnished and placed and given that Skanska did not submit a quote from Tahlequah, it is questionable under what arrangement Tahlequah will perform the alleged work and there is no support of the dollar value of participation

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Jeff Fefever, Office Chief
State Of California, Department Of Transportation
March 16, 2016

Re: 08-0Q3004 Bid Protest

claimed. From the submitted documents, it cannot be determined whether Tahlequah will indeed provide a commercially useful function or whether they will place a mere hundred pounds of rebar but furnish, as a pass through, hundreds of thousands of pounds of rebar produced by Gerdau for Gerdau to place. Additionally, there is no mention on Gerdau's quote that any of the quoted work would be further subcontracted to a DBE, much less an indication of which quoted items would be further subcontracted to a DBE.

In consideration of the above, Caltrans should throw out the DBE participation claimed by Skanska for the bridge rebar item. Doing so reduces Skanska's committed DBE participation to \$1,669,246 or 7.8%, which is less than the specified goal of 9%.

Considering that the second bidder, MCM Construction, did achieve the DBE goal and that Skanska had available to them sufficient DBE quotes and the same opportunities as MCM to utilize DBE firms, it cannot be objectively concluded that Skanska made a good faith effort to achieve the DBE goal. Accordingly, Skanska's bid does not meet the requirements for contract award.

We ask that Caltrans award Contract 08-0Q3004 to MCM Construction, Inc, the lowest responsible and responsive bidder.

Please contact the undersigned, should you have any questions or comments.

Sincerely,

MCM CONSTRUCTION, INC.



RICHARD McCALL
Vice President

/rm

Enclosures

Cc: JAC, HDM, JRC, RDB, Bid File

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
 DBE COMMITMENT
 03/03/2016 10:51:14

CONTRACT NO
08-0Q3004

AMOUNT
21,379,224.50

PROPOSAL DATE
3/3/2016

COMPANY NAME
Skanska USA (Civil West)

DISCOUNT RATE
9%

LINE ITEM COM FACTOR (PERCENTAGE)	MINIMUM PERCENTAGE OF SUB CONTRACTS (DBE OR NON-DBE)	TOTAL VALUE OF ALL SUB CONTRACTS (DBE & NON-DBE)
N/A	12	6,561,293

LINE ITEM NO.	DESCRIPTION OF WORK AND DESCRIPTION OF SERVICES TO BE SUB CONTRACTED OR MATERIAL TO BE PROVIDED	WORK CATEGORY CODES	NAME OF DBE (Must be certified on the date bids are opened. Include California's certification no., DBE address, and phone number. Show percentage lower DBE sub-contract %)	AMOUNT (\$)
74211	Reinforcing Steel for bridge	10, C5100	Tahlequah Steel, Inc (Tier 1) Germany N. Bellflower Blvd, #2108 Long Beach CA 90815	750,442
43, 03 9911	Water Truck	C9606	M & B Water Trucks, Inc. Ingvaldsen Place, Rancho Cucamonga, CA 91769 DBE# 40,511	115,350

Show all DBE items being bid and for award, regardless of tier. Also show written confirmation from each DBE showing 2015-2016 work schedule and the contract to perform the specific work. If any tier 1 DBE is not a DBE, show the contract to perform the specific work.

Total DBE: **1,952,688.57**

Total Non-DBE: **9.13%**

Each DBE owner must submit a statement of work to be performed by DBE, which will be performed by the DBE. If 100% of an item is to be performed by a DBE, the DBE should indicate the exact portion of the item to be performed or finished.

The Bidder acknowledges that it is the intent of this DBE report on this form to meet the contract requirements.

Albert Arteaga
 Signature of Bidder

03/08/16
 Date

951-684-5360
 (Area Code) Tel. No.

Albert Arteaga, Project Executive
 Person to Contact (Please Type or Print)

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STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
DBE CONFIRMATION
DBE-DB 0102 (REV 05/2015)

Contract No. 08-0Q3004

Name of DBE Toulon Steel Inc.

City Bakersfield
State 38564

Name of bidder Gerdau Reinforcing Steel

Name of prime contractor if different from the bidder Skanska USA Civil West

Name of representative of bidder or prime contractor Gerdau Reinforcing Steel, Bryan Folsom, Regional Sales Manager

Date March 2, 2016

DBE Item Number	Item or work and description of services to be subcontracted or materials to be provided	Amount (\$)
84(F)	Reinforcing Steel Bridge - partial furnish & install	\$283,442
Total		

If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion of the item to be performed or furnished

As an authorized representative of a certified disadvantaged business enterprise, I confirm that my business was contacted by the bidder or prime contractor shown above regarding the contract shown above. If the bidder is awarded the contract, my business will enter into a contractual agreement with the bidder or prime contractor to perform the type and dollar amount of work shown on the DBE Confirmation form.

I certify under penalty of perjury that the foregoing is true and correct.

Bryan Folsom
PRESIDENT

March 2, 2016
Date

NOA Notice: For documents with category 0240-0260, this document is available in electronic format. For alternate format information, write to the Forms Management Unit at (916) 465-1227, TTY 711, or write to Records and Forms Management, 1100 N. Street, MS-100, Sacramento, CA 95814.

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
DBE - COMMITMENT
DES-DE-010210D (REV 12/2014)

CONTRACT NO 08-0Q3004

BID AMOUNT \$1,417,208.00

BID OPENING DATE March 2, 2016

BIDDER NAME Gerdau Reinforcing Steel

DBE CONTRACT NUMBER

DBE Prime Contractor Certification ¹	TOTAL NUMBER OF ALL SUBCONTRACTS (DBE & NON-DBE)	TOTAL VALUE OF ALL SUBCONTRACTS (DBE & NON-DBE)
	1	1

BID ITEM NO	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED ²	WORK CATEGORY CODES ³	NAME OF DBE (Must be certified on the date bid is opened include Caltrans' certification no., DBE address, and phone number. Show and how to contact subcontractors)	AMOUNT (\$)
84(F)	Bar Reinforcing Steel (Bridge) Partial Furnish & Install	520102	Talequah Steel Inc.	\$283,442

Show all DBE firms being claimed for credit, regardless of tier. Attach written confirmation from each DBE shown stating that it will be participating in the contract to perform the specific work shown for the specific amount agreed to.

The names of the 1st tier DBE subcontractors and items of work must be consistent with the Subcontractor List (Pub Cont Code § 4100 et seq)

¹Each DBE prime contractor must enter its certification number and show all work to be performed by DBEs, including work performed by its own forces

²If 100% of an item is not to be performed or furnished by the DBE describe the exact portion of the item to be performed or furnished

³Use Work Category Codes from the California Unified Certification Program database

Total Claimed Participation

\$283,442

The bidder acknowledges that it is committed to use the DBEs shown on this form to meet the contract goal (48 CFR 20.53)

Signature of Bidder

03-02-2016
Date

909.713.1160
(Area Code) Tel No.

BRYAN FOLSON

Person to Contact

(Please Type or Print)

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General Contractor

March 3, 2016

Estimate #: E16L-014-Rev2

Attn: Estimating

Project: CalTrans 08-0Q3004 Realign Section of State Route 138
Hesperia, CA

Gerdau Reinforcing Steel, hereinafter called Subcontractor, proposes subject to the terms and conditions herein to furnish and/or place concrete reinforcing materials in accordance with the CRSI Manual of Standard Practice and based on the following documents: Drawing Sheets 1 through 212 (Dated 09/11/2015), Special Provisions (12/21/15), Cal Trans 2010 Standard Plans and Specifications, and Addendums 1 through 6 noted.

INCLUSIONS:

1. Furnish, fabricate, and install deformed reinforcing bars for cast-in-place concrete.
2. **Furnish, fabricate and install epoxy coated deformed reinforcing bars for cast-in-place concrete.**
3. Furnish, fabricate, cage and stockpile caisson cages at mutually agreed locations for placing by others (dobies supplied FOB)
4. Ultimate Butt Welded rebar hoops shown in CIDH and Columns.
5. **Supply epoxy coated pile anchor rebar for Bid Item 71, F.O.B. truck jobsite for placing by others.**

EXCLUSIONS:

1. Testing or inspection other than the furnishing of certified mill test reports.
2. Cost of bonds.
3. Hoisting and/or lowering of materials
4. Smooth dowels, galvanized, form savers, terminators, anchors, bolts, studs, sheathing, sleeves, stud rails, or irisorts.
5. Furnish and install of materials for post tension cables.
6. Wrapping, coating, painting, or greasing of dowels.
7. Cutting, drilling, grouting, or dry-packing, and/or placing of grouted dowels.
8. Welding of rebar to rebar; furnishing and/or welding of dowels to structural and/or miscellaneous iron except as noted for Inclusion #3 (Ultimate Butt Welded Hoops).
9. Cost of pour watchman other than during normal 40 hour straight-time work week while Subcontractor is performing scheduled work, standby time for pour watch.
10. Reinforcing for metal stair pans and landings.
11. The setting of pile and caisson cages as well as spacer material and/or placing accessories (reinforcing bars will be assembled in cages and delivered FOB trucks jobsite).
12. Any/all requirements for BIM modeling.
13. Any costs for preparing and/or stamping of shop drawings by an engineer.
14. Splices in reinforcing bars, field bending and/or construction joint dowels for Contractor's convenience.
15. Barrier cable; miscellaneous metals, turnbuckles, etc. for cables.
16. Reinforcing materials in precast items.
17. Performance of change order work when unresolved change order requests exceed five percent (5%) of the contract value.
18. Participation in "Joint Clean-up Crews"
19. Cost of remedial work and/or replacement of materials made necessary by water or flood damage to reinforcing steel following delivery or installation as directed by Contractor.
20. Removal of spoils from footings and small wire clippings caused by normal reinforcing installation

San Bernardino Office

5425 Industrial Parkway, San Bernardino, CA 92407 ~ License C50 No. 974202

Tel: (909) 713-1130 Fax (909) 713-1131



21. Special insurance provisions including Owners/Contractors Protective Liability and Contractors' Pollution Liability. Liability Insurance for the construction of any single family dwelling, townhouse, condominium or multi-tract housing development.
22. Any liability and defense or indemnification obligations associated with the completed work of apartments converted to condominiums, townhouse or housing.
23. Costs, impacts or liquidated damages as a result of material shortages caused by factors or market conditions beyond Subcontractor's reasonable control.

CONDITIONS:

1. Performance shall be based on conventional construction; timely receipt of construction documents and information; and a written schedule, based on a normal 5-day, 40 hour straight-time work week, to which Subcontractor is a party. A minimum of ten (10) working days for detailing and five (5) days for fabrication and delivery of materials is required.
2. Re-detailing and/or estimating resulting from design changes shall be billed at the rate of \$75.00 per hour.
3. Subcontractor shall not be required to continue the performance of work considered by the Subcontractor to be outside the scope of the work hereunder unless resolution of Subcontractor's submitted notices and valuation of such previous work is timely (i.e. within 30 days of Contractor's receipt of such notice). No change order work shall be performed when unresolved change order requests exceed five percent (5%) of the contract value.
4. Buyer to provide the following at no cost:
 - a. Lines, grades, supporting templates, layout, ramps, sanitary facilities, trash bins, and scaffolding.
 - b. Safe access to points of work, including tractor-trailer access to installation locations or to within 25 feet of where materials are to be used or hoisted.
 - c. Protection of vertical reinforcing steel where required by safety regulations.
 - d. Verification of existing conditions and all field measurements of same for the purpose of shop drawing preparation prior to fabrication of reinforcing steel.
 - e. Adequate areas for staging, storage, and pre-assembly of materials.
 - f. Traffic control, barricades, lane closures and all related permits
 - g. Electronic drawings.
 - h. Operated crane service during straight time working hours for unloading of trucks, hoisting and/or lowering of materials to the working levels, adjacent to points of installation, and for setting pre-assembled elements (the use of excavating equipment or other equipment not specifically designed for these purposes shall be strictly prohibited).
 - i. Parking for subcontractor's employees
5. In the event either Contractor or Subcontractor institutes a suit against the other in connection with any matter arising from this agreement, the prevailing party shall be entitled to recover from the other its reasonable attorney's fees and costs.
6. In the event the Contractor considers the performance of the Subcontractor to be delaying the progress of the work, Contractor shall provide timely written notification to the Subcontractor.
7. If Subcontractor is directed to proceed with any work in conjunction with this proposal, said direction shall constitute an acceptance of the terms, conditions and exclusions set forth herein and this document shall constitute a formal contract between the Subcontractor and Contractor for the performance of such work. Any contract created hereunder may only be superseded or supplemented by an acceptable written agreement executed by both the Subcontractor and Contractor.
8. Prices are based on commencing work approximately May 1, 2016, with completion of work hereunder by July 31, 2018.

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PRICES:

Bid Item	Item Code	Item Description	UOM	QTY	Unit Price	Total Price
1	0451R	Furnish Piling (Class 140) (Alternative W Modified)-Pile Anchor Rebar, U.O.J. Truck Jobsite	LP	1,817	\$ 3,3814	\$ 6,144.00
78(F)	5100*6	Structural Concrete, Approach Slab (Type N)	CY	300	\$ 200.9100	\$ 60,273.00
79(F)	5105*6	Minor Concrete (Minor Structure)	CY	290	\$ 60.1793	\$ 17,452.00
81(F)	520192	Bar Reinforcing Steel (Bridge)	LB	937,155	\$ 0.6437	\$ 603,273.00
86(F)	520110	Bar Reinforcing Steel (Epoxy Coated)(Bridge)	LB	668,902	\$ 0.8723	\$ 583,640.00
131(F)	530727	Concrete Barrier (Type 736 Modified)	LF	1,431	\$ 23.4745	\$ 33,592.00
132(F)	545184	Concrete Barrier (Type 742 Modified)	LF	826	\$ 32.1886	\$ 31,738.00
133(F)	539737	Concrete Barrier (Type 742B)	LF	230	\$ 37.2522	\$ 8,568.00
144(F)	520101	Bar Reinforcing Steel	LB	23,900	\$ 1.6826	\$ 50,311.00
148(F)	520103	Bar Reinforcing Steel (Retaining Wall)	LB	30,900	\$ 0.7190	\$ 22,217.00
Grand Total						\$ 1,417,208.00

TERMS OF PAYMENT:

95% of the contract value of work performed by the end of each month to be paid by the 30th day of the following month. Any Owner reduction of retention percentage shall be applied concurrently to payments to the Subcontractor. Final payment to be made within 30 days after substantial completion of the work under this agreement.

This proposal shall remain open for acceptance for 30 days.

Gerdau Reinforcing Steel

License C50, #974202
DIR# 1000000435

ACCEPTED FOR:

BY: Bryan Folsom
Bryan Folsom, Regional Sales Manager
(909) 273-3762

BY: _____

DATE: 03/02/2016

DATE: _____

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Search Returned 1 Records

Mon Mar 07 14:12:28 PST 2016

Query Criteria

Firm/DBA Name: tahlequah

Firm Type: DBE

Firm ID	38894
Firm/DBA Name	TAHLEQUAH STEEL INC
Address Line1	2050 N BELLEFLORE BLVD #2108
Address Line2	
City	LONG BEACH
State	CA
Zip Code1	90815
Zip Code2	
Mailing Address Line1	
Mailing Address Line2	
Mailing City	
Mailing State	
Mailing Zip Code1	
Mailing Zip Code2	
Certification Type	DBE
E-Mail	luciano@gmail.com
Contact Name	OLIVIA BARTON
Area Code	(562)
Phone Number	707-447-0
Alt Area Code	()
Alt Phone Number	
Fax Area Code	(562)
Fax Phone Number	494-1736
Agency Name	LOS ANGELES COUNTY METRO TRANSPORTATION AUTHORITY (MTA)
Counties	10; 13; 29; 39; 33; 34; 36; 37; 38; 40;
Districts	03; 04; 05; 06; 07; 08; 11; 12;
DBE NAICS	236110; 238100;
ACDBE NAICS	
Work Codes	C5100 CONCRETE STRUCTURE; C5601 STEEL STRUCTURES; C9801 BUILDING CONSTRUCTION;
Licenses	C20 Reinforcing Steel Contractor
Trucks	
Gender	M
Ethnicity	NATIVE AMERICAN
Firm Type	DBE

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FAX COVER SHEET

DATE: 3/16/16

PAGE: 1 OF 10 (INCLUDING COVER PAGE)

COMPANY: Caltrans

FAX # _____

ATTN: Jeff Fefevere

FROM: Richard McCall

FAX: (916) 334-8355

MESSAGE: Re: Contract 08-0Q3004

bid protest letter with enclosures