

# Dreambuilder

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Civil Engineering Construction

## Bid Protest Letter

Department of Transportation  
Office Engineer MS 43  
1727 30<sup>th</sup> Street, Sacramento, Ca 95816  
Ph: 916-227-6280 Fax: 916-227-6282  
Attn: Office Engineer

Date: 6/13/2015

**Sub: Bid protest for Caltrans Contract # 06-0E3404**  
**Bid open on 6/4/2015 @ 2:00PM**  
Reference: Caltrans bid proposal for Contract # 06-0E3504

Dear Sir,  
Dreambuilder is 2<sup>nd</sup> bidder on this project and submitting formal protest on this project as follows:

S T L Landscape Inc, is lowest bidder on this project at the time of bid. We reviewed on line DBE submittal by STL and we have following protest:

1. For Bit item # 3 & 4, STL listed subcontractor Statewide Safety & Signs Inc to perform 90% of these item, but same time in DBE Comittment submittal they are claiming to get rental of traffic equipment for item # 3 28% ( \$8353.50) and for item # 4 61% (\$970.00)  
Due to this discrepancy, both items are getting subcontracted more than 100% of items and as per subcontracting law, these items need to be performed by Prime Contractor with their own forces.  
Therefore, amount claimed participation for DBE for Full Traffic Maintence for amount of (8353.50+970) for item # 3 &4 should be zero and due to this total DBE goal achived for this contract by S T L will be 18.77%.  
Hence they are not meeting contract goal for 20% as required.
2. They have not submitted signed confirmation of any claimed DBE subcontractor or supplier on **Form as provided by the state at the time of bid**, hence their DBE claim need to be rejected for all subcontractor or suppliers.
  - Listed Subcontractor Perez Asphalt Construction LTD is claimed for for item # 27 and 28 to get DBE goal, but as per their DBE certificate they don't have work code to perform these items. As per Caltrans evaluation,  
" DBE' participation will not be counted if the DBE is not certified at the time of bid or if a certified DBE does not possess the correct work codes."
  - Hence Perez Asphalt Construction's participation can't be counted toward DBE goal.

Hence above listed protest shows, S T L Landscape, Inc. is not meeting Contract DBE goal, therefore, we are requesting to award this contract to Dreambuilder.

Thank you for your consideration.

Yours truly,



Alex Singh  
Project Coordinator

# Low Bidder

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
DBE - COMMITMENT  
DBE-CC-0102-000 (REV 12/2014)

06-10-15 A10:02 RCVD

CONTRACT NO. 06-0E3404  
BID AMOUNT: \$ 680,000  
BID OPENING DATE: 6/4/15  
BIDDER'S NAME: STL Landscape, Inc.  
DBE GOAL FROM CONTRACT %: 20%

DBE PRIME CONTRACTOR CERTIFICATION: Not Applicable  
TOTAL NUMBER OF ALL SUBCONTRACTS (DBE & NON-DBE): 5  
TOTAL VALUE OF ALL SUBCONTRACTS (DBE & NON-DBE): \$162,054

BID ITEM NO.	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED <sup>1</sup>	WORK CATEGORY CODES <sup>2</sup>	NAME OF DBE (Must be certified on the date bid is opened. Include Caltrans' certification no., DBE address and phone number. Show final bid breaker subcontractors.)	AMOUNT (\$)
11	Remove Chainlink Fence		Acc Fence Company	\$ 1,870
38	Chainlink Fence Type CL-6		727 Glendora Avenue La Puente, Ca 91744	\$ 6,400
39	4' Chainlink Gate Type CL-6			\$ 850
40	12' Chainlink Gate Type CL-6		DBE Cert No. 34153 628-333-0727	\$ 2,000
43	Alternative Crash Cushion System			\$ 35,600
28 thru 31	Place AC Dike (A,E,F)		AC Dike Co., No. 000219, 2788 Venture Dr Lincoln Ca 916-652-0159	\$ 4,500
28	Minor Hot Mix Asphalt		Perez Asphalt Construction Ltd., No. 28001,	\$ 65,951.73
27	Class II Aggregate Base		2470 Oak St Oakland, Ca 94612, 001-872-9693	\$ 9,878.22
6	Prepare Water Pollution Control Pits (Consulting)		Alfred Cris Engineering, No. 41902, 7004 Sagehen Way Citrus Heights Ca 95610 916-283-5300	\$ 600
3	Traffic Control Materials		Full Traffic Maintenance, No. 95742	\$ 4,033.50
4	Traffic Control Equipment Rental Portable Changeable Message Board Rental		217 Linn Court Corona, Ca 92702, 951-530-6900	\$ 3,400

Show all DBE firms being charged as DBE, regardless of tier. Attach written confirmation from each DBE chosen 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 list tier DBE subcontractors and items of work must be consistent with the Subcontractor List (Pub Cost Code 5 4 100 et seq)

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

<sup>2</sup>If 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

<sup>3</sup>Use Work Category Codes from the California Unified Certification Program database

Total Certified participation

\$ 136,976.45

20.14 %

The bidder acknowledges that it is committed to use the DBEs shown on this form to meet the contract goal (16 CFR 28.53).

Signature of Bidder

6/4/15

323-581-8200

Date

(Area Code) Tel No

Person to Contact

(Please Type or Print)

After adding this Rentals equip for item # 3,4 subcontracted item are below more than 10%.

Hence item 3&4 need be performed by Prime

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& STL Landscape will not get credit for Rental equipment & Hence of DBE goal should be \$ 127,653.00 (18.77 %)

L I S T   O F   S U B C O N T R A C T O R S

BIDDER ID	NAME AND ADDRESS	LICENSE NUMBER	DESCRIPTION OF PORTION OF WORK SUBCONTRACTED
04	STATEWIDE TRAFFIC SAFETY & SIGNS BAKERSFIELD CA	975518	CONSTRUCTION AREA SIGNS
	STATEWIDE TRAFFIC SAFETY & SIGNS BAKERSFIELD CA	975518	DELINEATOR (CLASS 1)
	STATEWIDE TRAFFIC SAFETY & SIGNS BAKERSFIELD CA	975518	FURNISH SINGLE SHEET ALUMINUM SIGN
	STATEWIDE TRAFFIC SAFETY & SIGNS BAKERSFIELD CA	975518	ITEM 14 (90%)
	STATEWIDE TRAFFIC SAFETY & SIGNS BAKERSFIELD CA	975518	ITEM 2 (90%)
	STATEWIDE TRAFFIC SAFETY & SIGNS BAKERSFIELD CA	975518	ITEM 3 (90%)
	STATEWIDE TRAFFIC SAFETY & SIGNS BAKERSFIELD CA	975518	ITEM 32 (90%)
	STATEWIDE TRAFFIC SAFETY & SIGNS BAKERSFIELD CA	975518	ITEM 33 (90%)
	STATEWIDE TRAFFIC SAFETY & SIGNS BAKERSFIELD CA	975518	ITEM 34 (90%)
	STATEWIDE TRAFFIC SAFETY & SIGNS BAKERSFIELD CA	975518	ITEM 35 (90%)
	STATEWIDE TRAFFIC SAFETY & SIGNS BAKERSFIELD CA	975518	ITEM 4 (90%)

ITEM 3 (90%) - \$ 27,000 (subcontracted amount) to statewide Safety & Sign

ITEM 4 (90%) - \$ 1440 (subcontracted amount) to statewide Safety & Sign

CONTINUED ON NEXT PAGE

Jun. 13. 2015 11:46AM Received

Jun 13 2015 12:48pm

No. 0819 P. 3

**FACT SHEET**  
**Federally Funded Contracts**  
**Evaluating DBE Participation**  
**Role of OBEO, Contract Evaluation Unit**  
**May 2013**

The California Department of Transportation (Caltrans), Office of Business and Economic Opportunity (OBEO), Contract Evaluation Unit (CEU), is responsible for evaluating all Caltrans federally funded contracts and is responsible for counting Disadvantaged Business Enterprise (DBE) participation towards contract goals according to federal regulation. The CEU determines whether the goal has been met or an adequate good faith effort has been made by the contractor.

<b>Bidder's Responsibility - For Meeting DBE Requirements</b>	
<p>Refer to the Special Provisions of the specific contract you are bidding on for your responsibilities. Contracts are advertised on the Office Engineer's (OE) website at <a href="http://dot.ca.gov/hq/efc/oe/weekly_ads/index.php">http://dot.ca.gov/hq/efc/oe/weekly_ads/index.php</a> and the Division of Procurement and Contracts' (DPAC) website at <a href="http://caltrans-dpac.ca.gov/contract.htm">http://caltrans-dpac.ca.gov/contract.htm</a>.</p>	
<b>Contract Evaluation Unit's Responsibility - Counting DBE Participation</b>	
Step 1	<p>A contract is received from Office Engineer (OE) or Division of Procurement and Contracts (DPAC) and the CALTRANS Bidder-DBE Commitment form from the prime contractor is reviewed to see if the prime contractor met the goal. If not, the good faith effort will be evaluated. See 49 CFR, Part 26, Appendix A, for good faith efforts guidance. This determination is based only on information timely submitted with the bid.</p>
Step 2	<p>Review the CALTRANS Bidder-DBE Commitment form from the prime contractor to:</p> <ul style="list-style-type: none"> <li>• ensure that the DBEs are certified by checking the California Unified Certification Program (CUCP) database (cross referencing DBE work category code(s) with contract bid items) (If the DBE is not certified, their participation will not be counted.)</li> <li>• ensure that the DBEs possess the correct work category code for the type of work they are listed to perform <a href="http://www.dot.ca.gov/hq/dep/ind_certified.htm">http://www.dot.ca.gov/hq/dep/ind_certified.htm</a> (If the DBE does not possess the correct work category code, their participation will not be counted.)</li> <li>• verify the dollar amount claimed for credit is accurate                         <ul style="list-style-type: none"> <li>• amount claimed for credit on DBE Commitment form is consistent with written confirmation (quote) from DBE.</li> <li>• amount claimed for credit is consistent with the prime contractor's bid and subcontractor listing</li> </ul> </li> </ul> <p>Written confirmation (quotes) from the DBEs are reviewed to verify if the DBEs are committed to do the work on the Caltrans Bidder DBE Commitment form.**</p> <p><b>**Important Note:</b> Rate sheets that are generic will not be accepted in lieu of written confirmation (quotes). This determination is based only on information timely submitted with the bid.</p>
Step 3	<p>Counting DBE participation: DBE participation is "counted" only where it is demonstrated that a certified DBE possessing the correct work codes will be actively participating on the contract. CEU will count DBE participation as follows:</p> <ul style="list-style-type: none"> <li>• The entire amount of that portion of a construction contract that is performed by the DBE's own forces are counted.</li> <li>• DBE participation will not be counted if the DBE is not certified at the time of bid or if a certified DBE does not possess the correct work codes.</li> <li>• The method for counting trucking towards the DBE goal requires the following additional documentation: motor carrier permit, truck title, registration, and proof of insurance, trailer or tanker registration, bills of lading, sub-hauling agreements, existing commitments of trucking on other jobs, and subcontract specific information (e.g., type of material hauled, number of trucks/trailers/tankers, load capacity, distance traveled, and schedule). Truckers need to own at least one, operable, insured truck.</li> <li>• DBE trucking firms receive 100 percent credit for the value of the hauling. DBE trucking firms who sublease to other DBE firms or DBE owner operators receive 100 percent of the value of the hauling.</li> <li>• DBE trucking firms who sublease to non-DBE trucking firms or non-DBE owner operators receive credit for the transportation arrangement or broker fees <i>only</i> - typically from 5-20 percent of the value of the hauling.</li> <li>• Cost of material or supplies are counted at 60 percent for regular dealers. Those claiming to be regular dealers of bulk items must additionally demonstrate that they own and operate appropriate distribution equipment.</li> </ul> <p><b>Important Note:</b> There may be times when further clarification of commitment is requested for other types of work.</p>
Step 4	<p>Determination is made regarding whether goal was met. If goal was not met, the good faith effort documentation will be evaluated.</p> <p><b>Important Note:</b> The steps above are not all inclusive. Other steps may be taken in the contract evaluation process.</p>
Step 5	<p>The contracts are returned to OE or DPAC, whichever is applicable.</p>