

**DEPARTMENT OF TRANSPORTATION**

DIVISION OF ENGINEERING SERVICES

OFFICE ENGINEER, MS 43

1727 30<sup>th</sup> STREET

P. O. BOX 168041

SACRAMENTO, CA 95816-8041

PHONE (916) 227-6280

FAX (916) 227-6282

TTY 711

*Flex your power!  
Be energy efficient!*

April 15, 2013

Facsimile: (831) 449-0700

Julio Castro, President  
Desert Concepts Construction, Inc.  
77-770 Country Club Drive, Suite D  
Palm Desert, CA 92211

03-1F6204  
03-Nev-49-31.3/R32.6  
B.O. 01/29/2013

Dear Mr. Castro:

The Department of Transportation (Caltrans) received the attached letter from AFSAR Law Group dated April 1, 2013, on behalf of Desert Concepts Construction, Inc. (Desert Concepts) protesting a Disadvantaged Veterans Business Enterprise (DVBE) Summary form submitted by Hansen Bros. Enterprises (Hansen). The protest alleges that Hansen incorrectly calculated the DVBE participation amount for Trucking & DVBE Construction.

The Office of Business and Economic Opportunity, Contract Evaluation Unit (CEU) has conducted a review of Hansen's DVBE submittal and confirmed that Hansen did meet the stated goal for this contract.

Based on the above, Caltrans finds Desert Concepts' protests lacks merit and will proceed to award the contract to the lowest responsible bidder, provided that all requirements are met.

If you have any questions, please contact Mulissa Smith, Contract Awards Branch Chief, at (916) 227-6228.

Sincerely,

  
JOHN C. McMILLAN  
Deputy Division Chief  
Office Engineer  
Division of Engineering Services

Attachment

# **AFSAR**

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## **LAW GROUP**

78-000 Fred Waring, Suite 203  
Palm Desert, CA 92211  
Ph: 760.345.3110  
Fax: 760.345.3220  
www.afsarlaw.com

April 1, 2013

**VIA FACSIMILE AND U.S. MAIL**

State of California Department of Transportation/Caltrans  
Office Engineer  
1727 30<sup>th</sup> Street  
Sacramento, CA 95816

**Re: Bid Protest - Bid No. 03-1F6204**

To Whom It May Concern:

This office represents the legal interests of Desert Concepts Construction, Inc. This correspondence is written as a formal Bid Protest for Contract Number 03-1F6204. As explained more thoroughly below, the bid of Hansen Bros. Enterprises (hereinafter "Hansen") contains errors which render their bid non-responsive.

In reviewing the Hansen bid, Desert Concepts Construction, Inc. discovered an error with regard to the total claimed participation on the Hansen bid. More specifically, the Hansen Bid Item List at Item 19 shows an item total amount of 159,588. The Subcontractor List, shows 20% of said Bid Item is for the Subcontractor. As a result, the amount to be shown on the DVBE Summary should be \$31,917.60, not \$16,053 as submitted.

While the individual computation error specified above may appear small, California courts have held that a bid that deviates from bid requirements must be rejected as nonresponsive, explaining bidders "were entitled to expect bids which did not meet the specifications would be rejected in favor of those which did or the contract would be rebid." (Konica Business Machines v. Regents of the University of California (1988) 206 Cal.App.3d 449, 457.) The purpose of strict compliance is to eliminate favoritism, fraud, corruption, and the misuse of public funds. The court continued by stating, "[b]ecause of the potential for abuse arising from deviations from strict adherence to standards which promote these public benefits, the letting of public contracts universally receives close judicial scrutiny and contracts awarded without strict compliance with bidding requirements will be set aside....The importance of maintaining integrity in government and the ease with which policy goals underlying the requirement for open competitive bidding may be surreptitiously undercut, mandate strict compliance with bidding requirements." (Id. at 456-457.)

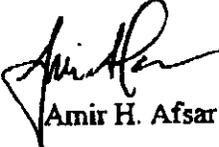
Based on our review of the bids, the Hansen bid should be rejected. Upon rejection of said bids, the contract should be awarded to the next lowest responsible bidder, Desert Concepts Construction, Inc.

April 1, 2013  
Page 2 of 2

We appreciate your time in reviewing the bids referenced herein and our protest of same. If we can provide any further assistance with regard to this project, please contact this office or Desert Concepts Construction, Inc. at your convenience.

Very truly yours,

AFSAR LAW GROUP, A.P.C.



Amir H. Afsar

Cc: Client  
AHA/jbl  
L032912.HansenBros.BidProtest.doc



78-000 Fred Waring, Suite 102  
Palm Desert, California 92211  
Telephone (760) 345-3110 Facsimile (760) 345-3220

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April 1, 2013

Total Number of Pages 3 (Including This Cover Letter)

Please deliver the attached pages to:

Company: Department of Transportation – Division of Engineering Services  
Office Engineer

Recipient's Fax No.: (916) 227-6282

From: Amir H. Afsar, Esq.  
Transmitted From: (760) 345-3220

**Re: Bid Protest on Contract Number 03-1F3204**

Please see the attached correspondence.

If you have any additional questions, please don't hesitate to contact this office.

Thank you,

Original Sent By U.S. Mail:  Yes [ ] No

THE INFORMATION CONTAINED IN THIS COMMUNICATION IS CONFIDENTIAL. SAID INFORMATION MAY BE ATTORNEY/CLIENT PRIVILEGED, MAY CONSTITUTE INSIDE INFORMATION AND IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE. UNAUTHORIZED USE, DISCLOSURE OR COPYING IS STRICTLY PROHIBITED AND MAY BE UNLAWFUL. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY AFSAR LAW GROUP IMMEDIATELY AT (760) 345-3110. THANK YOU FOR YOUR ANTICIPATED COOPERATION.

Visit us on the web at:  
[www.AfsarLaw.com](http://www.AfsarLaw.com)

**\*\* Transmit Conf. Report \*\***

P. 1  
CALTRANS CONTR AWARDS Fax 916-227-6282

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STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

EDMUND G. BROWN Jr., Governor

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DIVISION OF ENGINEERING SERVICES  
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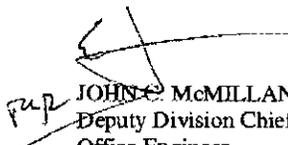
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