

# AFSAR

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## LAW GROUP

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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.

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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



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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

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