



634 Printz Road  
 Arroyo Grande, Ca. 93420  
 Office (805) 489-7779 · Fax (805) 473-2479

November 3, 2014

State of California  
 Department of Transportation  
 MSC 43  
 Office Engineer  
 1727 30<sup>th</sup> Street  
 Sacramento CA, 95816-6282

via Fax and US Mail

Facsimile Number 916-227-6282

Attn: John McMillan, Deputy Division Chief

RE: Bid Protest  
 Contract 05-0R8304  
 Bid Opening Date 10-15-2015

Please consider this letter a formal response to Afsar Law Group's (Afsar) frivolous protest, on behalf of Desert Construction Co., Inc. (DCCI), of the award of contract 05-0R8304 to Brough Construction, Inc. (BCI). Afsar alleges that BCI "specified more than one subcontractor for the same portion of work (bid item 3)". BCI listed Super Seal & Kellie Avila for bid item 3. Super Seal is providing traffic control for their work; Avila is providing Traffic Control for BCI's work. Please reference the instructions from the Caltrans "FAQ" web site (Attachment A) for listing 2 or more subcontractors for the same item of work. BCI is in compliance with Caltrans standard procedures and Public Contract Code 4104 (b) and 4106, in regards to listing subcontractors. With the facts listed above, it is clear that Afsar's protest lacks any merit.

Afsar should analyze their client's bid package prior to submitting a bid protest. Quick review shows DCCI is *not* in compliance with section 4100 – 4114 of the Public contract code, or Caltrans standard procedures.

For Example:

- (1) The subcontractor list DCCI submitted shows Super Seal for \$7,097.00 (Attachment B and C, with calculations) of subcontracted work. On the DBE commitment form DCCI claims Super Seal for \$17,181.00 (Attachment D). DCCI increased the dollar amount to meet the DBE goal; an inconsistent bid form and therefore, a non-responsive bid.
- (2) The DBE commitment form (Attachment E) that DCCI submitted also includes an additional subcontractor that was not listed on their subcontractor form; DCCI included Veridico Group Inc. for bid items 1, 5 & 6, at 100% for those items (Attachment F). More specifically bid item 5, Job Site Management, DCCI did not clearly indicate the scope that Veridico would be providing. The DBE commitment form clearly states "If 100% of item is not to be performed or furnished by DBE, describe exact portion of item to be performed or furnished". DCCI's DBE commitment form states the Veridico will be providing Job site Management which would be 100% of that bid item 5 (LS, \$40,000) which would put DCCI in violation of Public Contract Code Section 4104 (a), for not listing a subcontractor in excess of \$10,000.00.

Thank you,

John Souza

## Attachment "A"

A bidder's bond aka: bidder's security, proposal guaranty is 10% of the total bid that is submitted with the bid proposal. The contract bonds are the payment bond and the performance bond that must be submitted by the successful (awarded) bidder which are required before contract approval.

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**In listing my subcontractors on an A+B contract (aka cost plus contract) , the "one-half of one percent" is based on the A or the total of A+B?**

When listing the subcontractors on an A+B contract, the one-half of one percent is based on the "A" portion only.

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**In the "Amendments to the Standard Specifications", some specifications refer to either a Federal-aid contract or a non-Federal contract. How can I tell if my contract is a Federal-aid contract or a non-Federal contract?**

A federal-aid contract has a Federal-Aid Project number on the cover of the Notice to Bidders and Special Provisions.

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**I sent a letter to the Department requesting relief of bid within the time specified but did not use the "Relief of Bid Request" form. Will my request be considered?**

Your request will be considered. However you will be directed to complete the form and submit the form with your supporting documents as soon as possible.

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**In the "Subcontractor List" form which is included in the Bid book, am I required to list all of my subcontractors? If I forgot to list a subcontractor(s), can I submit a revised subcontractor list?**

You are required to list all subcontractors that you intend to use in the contract whose subcontract work amount to more that one half of one percent of its total bid or \$10,000 whichever is greater. You can not revised a subcontractor list once your bid is accepted. However, subcontractor substitution may be allowed only when the conditions described in Section 4107 of the Public Contract Code apply.

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**\* Can I list 2 or more subcontractors for the same item of work? How should I list them properly in the subcontractor list form?**

Yes. You can list 2 or more subcontractors for the same item of work.. However, in order not to run afoul with the provisions in Sections 4104(b) and 4106 of the Public Contract Code, you have to describe in detail the specific work that each subcontractor will perform for that item of work. The description should be written clearly in the Subcontractor List form.

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Attachment "B"

Airport \* Highway \* Street \* Parking Lot \* Striping \* Pavement Markings \* Markers \* Thermoplastic \* Signs \* Sealcoat \* Crackfill



CA LIC. # 396827, CLASS C-32 - WBE / SBE / DBE #2003

CORPORATE OFFICE: 310 A STREET, P.O. BOX 755 FILLMORE, CA 93016

SATELLITE OFFICE: 151 AIRPORT ROAD, KING CITY, CA 93830

PH: (806) 524-7345 / FAX: (805) 524-7428

ESTIMATE

COMPANY:

PHONE:

JOB NAME: CALTRANS 05-0R8304 - CONSTRUCTION ON ROUTES 1, 101 & 135

ADDRESS: VARIOUS LOCATIONS

PLANS: YES

ESTIMATOR: TREVOR

FAX:

ATTN:

EMAIL:

SPECS: YES

CITY: S.B. & S.L.O. COUNTIES

EMAIL: trevor@supersealandstripe.com

BID DATE	ACCEPTANCE	START DATE	COMPLETION DATE			
10/15/14						
ITEM #	DESCRIPTION	QTY	U/M	U.C.	TOTAL	
	<b>REMOVE BY GRINDING AND APPLY THERMOPLASTIC MATERIAL</b>					
1	LEAD COMPLIANCE PLAN (PARTIAL - FOR OUR WORK ONLY)	1	LS	\$2,876.00	\$2,876.00	
2	TRAFFIC CONTROL SYSTEM (PARTIAL - FOR OUR WORK ONLY)	1	LS	\$3,000.00	\$3,000.00	
9	REMOVE YELLOW THERMOPLASTIC TRAFFIC STRIPE (HAZMAT)	10	LF	\$115.00	\$1,150.00	
12	REMOVE THERMOPLASTIC PAVEMENT MARKING	220	SF	\$2.00	\$440.00	
51	4" THERMOPLASTIC TRAFFIC STRIPE	70	LF	\$4.00	\$280.00	
52	6" THERMOPLASTIC TRAFFIC STRIPE	85	LF	\$5.00	\$425.00	
63	THERMOPLASTIC PAVEMENT MARKING	610	SF	\$8.00	\$4,980.00	
64	PAVEMENT MARKER (NON-REFLECTIVE)	90	EA	\$4.00	\$360.00	
55	PAVEMENT MARKER (RETROREFLECTIVE)	22	EA	\$5.00	\$110.00	
64	MOBILIZATION	1	LS	\$7,360.00	\$7,360.00	
<p><b>THIS PROPOSAL EXCLUDES THE FOLLOWING:</b>                      REMOVAL OF TEMP TAGS                      TEMPORARY STRIPING                      CONSTRUCTION AREA SIGNAGE                      POSTING OF TEMPORARY NO PARKING SIGNS                      SIGNAGE                      MESSAGE BOARDS                      TRAFFIC CONTROL PLAN                      WET SANDBLASTING                      SURFACE PREP PRIOR TO STRIPING</p> <p>BASED ON ONE MOVE-IN, ADDITIONAL MOVE-INS @ \$4,500/EA</p> <p>CONTRACTOR IS TO PROVIDE AN ON-SITE LOCATION TO STOCKPILE REMOVAL DEBRIS AND PAY ALL ASSOCIATED COSTS/FEE'S FOR HAUL-OFF AND DISPOSAL (NON-HAZMAT). INCLUDES DISPOSAL OF HAZARDOUS MATERIAL ONLY.</p> <p>DOWN TIME CAUSED BY ANYTHING BEYOND THE CONTROL OF SUPER SEAL AND STRIPE WILL BE BILLED AT \$125/MAN HOUR</p> <p>INCLUDES LAYOUT ON THE SAME DAY AS STRIPING. IF LAYOUT IS REQUIRED ON DAYS PRIOR TO INSTALLATION, AN ADDITIONAL MOBILIZATION WILL BE BILLED.</p> <p>PRICE DOES NOT INCLUDE PREMIUM FOR SATURDAY OR SUNDAY WORK HOURS                      CALL TIM TANNER FOR SCHEDULING - (805) 432-3820</p>						
				PAGE 1 OF 3	TOTAL	\$20,590.00

-part  
 -part  
 part

A CONTRACT AND FIFTEEN (15) WORKING DAYS NOTICE MUST BE GIVEN PRIOR TO STARTING WORK. UPON ACCEPTANCE PLEASE SIGN AND RETURN. ABOVE PRICE NOT VALID AFTER 30 DAYS.

# Attachment "C"

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 05-0R8304 Project ID: 0500000381

Bidder Name: Desert Concepts Construction, Inc.

Bidder ID: VC0000108345

List this sub? Yes

2) Business Name ACE FENCE COMPANY

Location City LA PUENTE State CA

California Contractor License Number (a) 996577

Description of Portion of Work

REMOVE CHAIN LINK FENCE, CHAIN LINK FENCE (TYPE CL-6), PEDESTRIAN BARRICADE TYPE I

Bid Item Numbers

11

Percentage of Bid Item Subcontracted

100

Bid Item Numbers

49

Percentage of Bid Item Subcontracted

100

Bid Item Numbers

50

Percentage of Bid Item Subcontracted

100

Bid Item Numbers

Percentage of Bid Item Subcontracted

Bid Item Numbers

Percentage of Bid Item Subcontracted

List this sub? Yes

3) Business Name SUPER SEAL AND STRIPE

Location City FILLMORE State CA

California Contractor License Number (a) 396627

Description of Portion of Work

REMOVE YELLOW THERMOPLASTIC, REMOVE THERMOPLASTIC, 4" & 6" THERMOPLASTIC

Bid Item Numbers

9, 12, 51, 52, 53, 55, 64

Percentage of Bid Item Subcontracted

100, 100, 100, 100, 100, 100, 0.102

Bid Item Numbers

Percentage of Bid Item Subcontracted

Quote ATTACHED

### BID ITEM

9. #1150-	100%
12. 440-	100%
51. 280-	100%
52. 425-	100%
53. 4590-	100%
55. 110-	100%
64. 102-	.102%

Total 7097.00

DCCI BID  
100 K For  
Item #64

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 05-0R8304

Project ID: 0500000301

Bidder Name: Desert Concepts Construction, Inc.

Bidder ID: VC0000108345

CALTRANS BIDDER - DBE - COMMITMENT

DES-OE-0102.10C (NEW 6/2012)

Attachment "D"

10-17-14A10:14 RCVD

Bid Item No.

11,49,50

Item of work and description of services to be subcontracted or materials to be provided.

REMOVE CHAIN LINK FENCE, CHAIN LINK FENCE (TYPE CL-6), PEDESTRIAN BARRICADE TYPE FOR CALTRANS USE ONLY

Name of DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)

ACE FENCE COMPANY

727 NORTH GLENDORA AVE, LA PUENTE CA. 91744

CERTIFICATION# 642 PH#626-333-0727

Dollar amount DBE 23,850.00

Bid Item No.

9,12,51,52,53,55,64

Item of work and description of services to be subcontracted or materials to be provided.

REMOVE YELLOW THERMOPLASTIC, REMOVE THERMOPLASTIC, 4" &amp; 6" THERMOPLASTIC TRAFFIC STR FOR CALTRANS USE ONLY

Name of DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)

SUPER SEAL AND STRIPE

310 A STREET FILMORE, CA. 93016

CERTIFICATION# 2003 PH#805-524-7345

Dollar amount DBE 17,181.00

Bid Item No.

Item of work and description of services to be subcontracted or materials to be provided.

FOR CALTRANS USE ONLY

Name of DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)

Dollar amount DBE

## STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 05-OR8304

Project ID: 0500000381

Bidder Name: Desert Concepts Construction, Inc.

Bidder ID: VC0000108345

CALTRANS BIDDER - DBE - COMMITMENT

DES-OR-0102.10C (NEW 6/2012)

Attachment "E"

Bid Item No.

~~3, 13, 17, 18, 36, 37, 38, 39, 4~~

Item of work and description of services to be subcontracted or materials to be provided.

~~CONST AREA SIGNS, TRAFFIC CONTROL SYSTEM, REMOVE-RESET & RELOCATE ROADSIDE SIGN, FOR CALTRANS USE ONLY~~

Name of DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)

MANERI TRAFFIC CONTROL

47423 RAINBOW CANYON, TEMECULA CA. 92592

CERTIFICATION# 38078 PH#951-695-5104

Dollar amount DBE 72,591.35

Bid Item No.

1, 5, 6

Item of work and description of services to be subcontracted or materials to be provided.

LEAD COMPLIANCE (SOIL) AND GRINDING/COLD, JOBSITE MANAMENT, PREPARE WATER PCP FOR CALTRANS USE ONLY

Name of DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)

VERIDICO GROUP, INC.

P.O. BOX 673, ROSEVILLE CA. 95661

CERTIFICATION# 39572 PH#707-317-0002

Dollar amount DBE 9,870.00

Bid Item No.

~~40, 43, 46~~

Item of work and description of services to be subcontracted or materials to be provided.

~~24" ALTERNATIVE PIPE CULVERT, 24" ALTERNATIVE FLARED, DETECTABLE WARNING SURFACE FOR CALTRANS USE ONLY~~

Name of DBEs (Must be certified on the date bids are opened - include Caltrans certification #, DBE address and phone number) (Indicate 2nd and lower tier subcontractors)

WATER COMPONENTS &amp; BUILDING SUPPLY, INC.

44 SIMMS ST., SAN RAFAEL, CA. 94901

CERTIFICATION# 27363 PH#415-524-8290

Dollar amount DBE 9,959.40



Attachment "F"  
Total \$9870

PROGRAM MANAGEMENT | ENVIRONMENTAL SERVICES | WATER RESOURCES ENGINEERING

DBE Contractor – CUCP Certificate Number 39572

Date: 15 OCT 14

Contract #: 05-OR8304 – CONSTRUCT CONCRETE CURB RAMPS, SIDEWALK AND HMA PAVEMENT

Bid Date: 15 OCT 2014

Veridico Group, Inc. (Veridico) is pleased to provide the following contract pricing for the specified work scope items detailed in the subject contract solicitation:

Item No.	Item code	Item Description	Unit of Measure	Est Qty	Bid	Amount
1	070030	LEAD COMPLIANCE PLAN (SOIL)	LS	LS	\$1,250.00	\$1,250.00
1	070030	LEAD COMPLIANCE PLAN (GRINDING/COLD PLANING)	LS	LS	\$1,250.00	\$1,250.00
5	130100	JOB SITE MANAGEMENT	WK	15	\$275.00	\$4,125.00
6	130200	PREPARE WATER POLLUTION CONTROL PROGRAM (PARTIAL – PLAN ONLY)	LS	LS	\$495.00	\$495.00

USE GF  
0.171%  
25 wks of 279  
\$6875  
100%  
100%  
100%

TERMS AND CONDITIONS:

1. This quote and attached terms and conditions must become a binding part of any sub-contract.
2. A contract and 10 working days notice must be given prior to start of work. This quote shall remain valid for 30 days from date of actual bid opening, unless otherwise agreed upon
3. TERMS: Due and payable within 30 days from date of installation and/or as per Business and Professional code 7108.5 and Public contract code 10262.5 (for progress payments) and/or as per Public contract Code 7107 (for retention due).
4. All change orders must be approved by agency/owner prior to work being performed by Veridico.
5. Excludes any insurance requirements in excess of Caltrans Standard Specifications.
6. Splitting offered bid item quotes may be considered. Please call Tim Anenson at (707) 317-0002 to discuss splitting the bid item quotes prior to the Caltrans submittal deadline.

Sub?



634 PRINTZ ROAD  
ARROYO GRANDE, CA. 93420  
OFFICE (805) 489-7779 · FAX (805) 473-2479

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**FACSIMILE TRANSMITTAL SHEET**

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To: Office Engineer

From:

John Souza

916-227-6282

Fax Number:

Date:

11-03-14

COMPANY:

TOTAL NO. OF PAGES INCLUDING COVER:

8

PHONE NUMBER:

SENDER'S REFERENCE NUMBER:

Re:

YOUR REFERENCE NUMBER:

 URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

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**NOTES/COMMENTS:**

**ATTACHED IS OUR RESPONSE TO A BID PROTEST  
FOR CONTRACT # 05-0R8304  
BID DATE 10-15-2014**