

**AGENDA
STATE TRANSPORTATION BOARD
PUBLIC HEARING AND BOARD MEETING
9:00 a.m., Friday, April 20, 2012
City of Flagstaff Council Chambers
211 West Aspen Avenue
Flagstaff, Arizona 86001**

Pursuant to A.R.S. Sec. 38-431.02, notice is hereby given to the members of the State Transportation Board and to the general public that the State Transportation Board will hold a meeting open to the public on Friday, April 20, 2012, 9:00 a.m., at the City of Flagstaff Council Chambers. The Board may vote to go into Executive Session, which will not be open to the public, to discuss certain matters relating to any items on the agenda. Members of the Transportation Board will attend either in person or by telephone conference call.

EXECUTIVE SESSION OF THE STATE TRANSPORTATION BOARD

Pursuant to A.R.S. 38-431.03 (A)(3), notice is hereby given to the members of the Arizona State Transportation Board and to the general public that the Board may meet in Executive Session for discussion or consultation for legal advice with legal counsel at its meeting on Friday, April 20, 2012. The Board may, at its discretion, recess and reconvene the Executive Session as needed, relating to any items on the agenda.

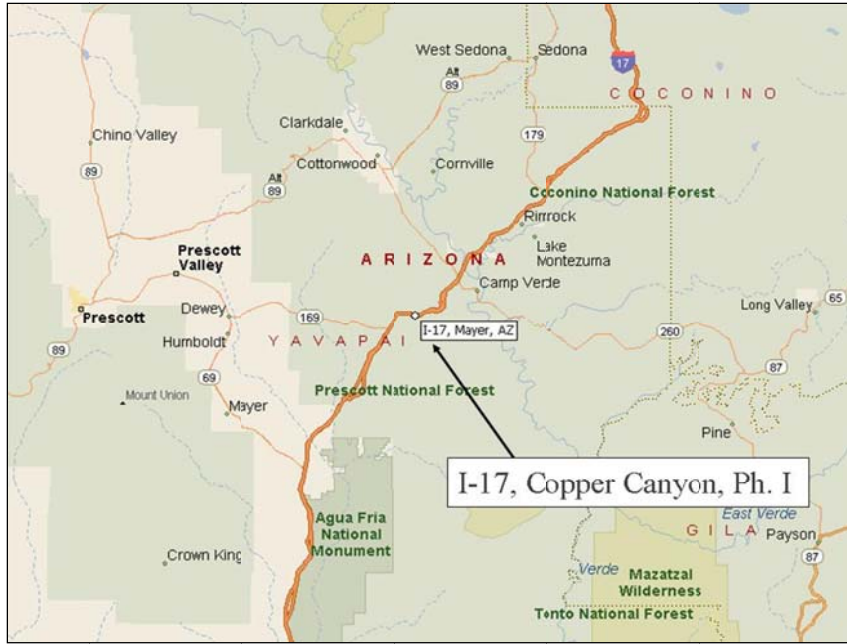
Amendments to the State Transportation Board Agenda are *italicized* below:

ADDITION to PPAC AGENDA

2012 - 2016 Transportation Facilities Construction Program - Requested Modifications Discussion and Possible Action.

*ITEM 11u:	ROUTE NO: I-17@ 280.0	Page 6
	COUNTY: Yavapai	
	DISTRICT: Prescott	
	SCHEDULE: FY 2012	
	SECTION: Copper Canyon, Phase I	
	TYPE OF WORK: Construct Climbing Lanes	
	ADVERTISEMENT DATE: 06/30/2012	
	PROGRAM AMOUNT: New Project Request	
	PROJECT MANAGER: Vicki Bever	
	PROJECT: H702701C	
	REQUESTED ACTION: Establish a new construction project for \$15,500,000 in the Highway Construction Program. Funds are available from the FY 2012 Statewide Contingency Fund #72312.	
NEW PROGRAM AMOUNT:		\$ 15,500,000

(See PPAC map next page)



CHANGE CONTRACT ITEMS

Interstate Federal-Aid (“A” “B”) projects do not need FHWA concurrence, but must comply with DBE regulations; other projects are subject to FHWA and/or local government concurrence and compliance with DBE regulations.

***ITEM 13f:**

BIDS OPENED: March 2, 2012
HIGHWAY: PAYSON-SHOW LOW HIGHWAY (SR 260)
SECTION: Linden to Show Low
COUNTY: Navajo
ROUTE NO.: SR 260
PROJECT: NH-260-B(215)A 260 NA 331 H835301C
FUNDING: 94% Federal 6% state
LOW BIDDER: Intermountain Slurry Seal, Inc.
LOW BID AMOUNT: \$ 1,041,000.00
STATE ESTIMATE: \$ 1,005,703.66
\$ OVER ESTIMATE: \$ 35,296.34
% OVER ESTIMATE: 3.5%
PROJECT DBE GOAL: 4.05%
BIDDER COMMITMENT: Good Faith Effort
NO. BIDDERS: 4
RECOMMENDATION: REJECT ALL BIDS

RECOMMENDATION:

There were four bids on this project. The as-read bid results and the DBE assurances certification of each bidder were as follows:

<u>Bidder</u>	<u>As-Read Bid Amount</u>	<u>Contractor Name</u>	<u>DBE Assurances</u>
1	\$1,041,000.00	INTERMOUNTAIN SLURRY SEAL, INC.	Good Faith Effort
2	\$1,056,602.35	SOUTHWEST SLURRY SEAL, INC.	Met Goal
3	\$1,099,682.00	INTERNATIONAL SURFACING SYSTEMS	Met Goal
4	\$1,144,909.08	GENEVA ROCK PRODUCTS, INC.	Met Goal

For reasons discussed below, Bidders 1, 2 and 4 must be rejected for failure to comply with project DBE requirements. A DBE compliance review was not completed on Bidder 3, so it is not known if it met the DBE requirements. Even if Bidder 3 met the requirements, having only one responsive and responsible bidder is not an acceptable outcome and does not serve the best interests of the Department or the public.

Section 103.01 of the ADOT Standard Specifications for Roads and Bridges clearly states:

The right is reserved to reject any or all proposals, to waive technicalities or to advertise for new proposals if, in the judgment of the Department, the best interests of the Department will be promoted thereby.

The Department, in accordance with Section 103.01, therefore recommends rejection of all bids on this project and intends to re-advertise for new bids at the earliest convenient date. In accordance with the Standard Specifications, bidders have until 5:00 P.M. on April 19, 2012, to file any protest concerning the recommendation to reject all bids. At the time this agenda item was prepared no protests had been received but the deadline had not passed. The State Engineer will provide an update at the Board meeting.

COMMENTS:

With its bid documents, Bidder 1 certified that it had not been able to meet the DBE goal for the project but had made a good faith effort to do so. In order to claim good faith effort, the specifications require that a bidder take all necessary and reasonable steps to solicit, assist and use DBE firms to meet the DBE goal prior to the bid and that the bidder actively and aggressively seek DBE participation in the project. Bidder 1 used as its source of information a list of DBE firms that was over 18 months old and in fact predated the use of DBE goals on ADOT projects. Some of the firms Bidder 1 claims to have attempted to contact were not certified DBE firms. Bidder 1 submitted fax transmittals as evidence of soliciting bids from qualified DBE firms, but many of the confirmation sheets indicated that the faxes had not been processed due to incorrect or disconnected numbers and there was a lack of evidence regarding any follow up to the faxes that were sent. Up-to-date DBE lists are readily available from ADOT Civil Rights and would have allowed Bidder 1 to recognize that some firms were no longer certified DBEs, others have been added, and current information on how to contact each DBE. Further, Bidder 1 claims to have solicited DBE firms in a number of work categories but could not provide any evidence that it had done anything more than simply send out a general request for quotes. Further, Bidder 1 claims that it provided bid documents to three DBE firms, but one of those was not an Arizona certified DBE firm, another said that it had only been provided information verbally, and the third said it had received no information. Bidder 1 must be rejected because it did not use all necessary and reasonable means to solicit, assist and use certified DBE firms for this project prior to bid and did not actively and aggressively seek DBE participation.

Bidders 2 and 4 both certified with their bids that they had met the DBE goal for the project. During its review, ADOT Civil Rights noted that Bidders 1, 2 and 4 all proposed to use the same DBE firm for trucking work, but Bidders 2 and 4 were claiming a substantially higher DBE credit. Civil Rights contacted that DBE for an explanation. The DBE explained that it had quoted the same price for the

same work to all three bidders, but that Bidders 2 and 4 both stated they were increasing the quoted amount in order to meet the DBE goal. Within the DBE specifications for this project:

Section 10.01 states in part "Only the value of the work actually performed by the DBE can be credited toward DBE participation.", and

Section 10.03 states in part "A prime contractor can credit expenditures to a DBE subcontractor toward DBE goals only if the DBE performs a commercially useful function on the contract" and "To determine whether a DBE is performing a commercially useful function, the Department will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors."

Section 10.04 states in part "...there cannot be a contrived arrangement for the purpose of meeting DBE goals".

The value of the work and commercially useful function to be performed by the DBE is the amount of the quote from the DBE. Only that value, not the additional amount, can be counted toward the DBE goal. Further, in offering to pay more than the quoted amount and more than the commercially useful function, Bidders 2 and 4 contrived to meet the goal by artificially inflating the cost of the work to be performed. Based on this information, Bidders 2 and 4 must be rejected.

***ITEM 13g:**

BIDS OPENED: March 23, 0212
HIGHWAY: YUMA-CASA GRANDE HIGHWAY & GILA BEND-
LUKEVILLE HIGHWAY
SECTION: West and South of Gila Bend
COUNTY: Maricopa
ROUTE NO.: I-8 and SR 85
PROJECT: STP-999-A(335)A 999 MA 000 H836701C
FUNDING: 94% Federal 6% State

	Low Bidder	Second Bidder
BIDDER:	Cholla Pavement Maintenance, Inc.	Cactus Transport, Inc.
LOW BID AMOUNT:	\$ 788,596.84	\$ 881,461.53
STATE ESTIMATE:	\$ 881,999.60	\$ 881,999.60
\$ UNDER ESTIMATE:	\$ 93,402.76	\$ 538.07
% UNDER ESTIMATE:	10.6%	0.1%
PROJECT DBE GOAL:	4.12%	4.12%
BIDDER COMMITMENT:	See Comments	4.12%
NO. BIDDERS:	6	6
RECOMMENDATION:	Reject low bid, award to second bidder	

COMMENTS:

The Department recommends rejection of the bid from Cholla Pavement Maintenance, Inc. (Cholla) for failure to comply with DBE requirements for the project and recommends award to Cactus Transport, Inc. (Cactus) as the lowest responsible and responsive bidder.

In its bid documents, Cholla certified that it had not met the stated DBE goal of 4.12% for this project but had made a good faith effort to do so as required by the special provisions. The special provisions clearly state that to claim good faith effort, a bidder having trouble meeting the DBE goal must contact

ADOT Civil Rights for assistance before the bids open. Cholla failed to contact Civil Rights for assistance as required before bids opened. Cholla has done so on other past projects, and so should be well acquainted with this requirement and the assistance that Civil Rights can provide, but failed to do so on this project.

The special provisions also state that for a contract to be awarded on the basis of good faith efforts, a bidder must show that it took all necessary and reasonable steps to solicit, assist and use DBE firms to meet the DBE goal prior to the bid and that it actively and aggressively sought DBE participation in the project. Cholla submitted documentation to show that it contacted three DBE firms, but all for the same type of work. If Cholla had contacted Civil Rights it would have found that there were other areas of work that could have been performed by DBE firms. Further, while Cholla claims to have made a good faith effort, it was unable to find even one DBE firm to help meet the goal on the project. All four other bidders on this project certified with their bids that they were able to meet the goal. Review and analysis by ADOT Civil Rights concludes that Cholla did not use all necessary and reasonable means to solicit, assist and use DBEs for this project prior to the bid and did not actively and aggressively seek DBE participation.

Because Cholla failed to contact Civil Rights for assistance before bids opened, and failed to demonstrate compliance with the requirements necessary to show good faith effort, its bid must be rejected. The result is that Cactus becomes the apparent low bidder. Cactus submitted its DBE Intended Participation Affidavit and required information by the required deadline and it has been reviewed by the Civil Rights Office and found satisfactory.

In accordance with the Standard Specifications, bidders had until 5:00 P.M. on April 16, 2012, to file any protest on the rejection of Cholla and naming Cactus as the apparent low bidder. The deadline has passed and no protests were received.

Dated this 18th day of April 2012
STATE TRANSPORTATION BOARD
By: Lila Trimmer



**ARIZONA DEPARTMENT OF TRANSPORTATION
INTERMODAL TRANSPORTATION DIVISION
WEB PRB REQUEST FORM (version 3.0)**

1. PRB MEETING DATE:04/03/2012

2. Phone Teleconference?No
Video Teleconference?No

At Phone #:

[Click here to view all previous PRB Actions for this project](#)

GENERAL INFORMATION

3. Form Date:

04/09/2012

4. Project Manager / Presenter Information:

Vicki Bever

(602) 712-8161

5. Form Created By:

Vicki Bever

9210 Statewide Project Management

205 S 17th Ave, 295, 614E

PROJECT INFORMATION

6. Project Location / Name:

Copper Canyon, Phase 1

7. Type of Work:

Construct Climbing Lanes

8. CPS Id:

QZ1H

9. District:

Prescott

10. Route:

17

11. County:

Yavapai

12. Beg MP:

280

13. TRACS #:

H702701C

14. Len (mi.):

7

15. Fed ID #:

017-B(211)A

PROJECT REQUEST SUMMARY

17. Original Program Item # (Current 5 Yr Program):

18. Current Approved

Program Budget (in \$000):

0

18a. (+/-) Program Budget

Request (in \$000):

15,500

18b. Total Program Budget

After Request (in \$000):

15,500

19. Currently Approved Budget Funding List:

19a. New / Budget Change Request Funding List:

Amount (in \$000):

Comments:

Fund Item #:

Details:

Amount (in \$000):

15,500

Comments:

Fund Item #:

72312

Details:

FY:2012-CONTINGENCY-Pro
gram Cost Adjustments

20. JPA #s:

CURRENTLY APPROVED SCHEDULE

21. Current Fiscal Year:

22. Current Bid Pkg Ready Date:

23. Current Bid Adv Date:

CHANGE REQUEST / NEW PROJECT SCHEDULE

21a. Request Fiscal Year to:

2012

22a. Request Bid Pkg Ready Date to:

06/01/2012

23a. Request Bid Adv Date to:

06/30/2012

ADDITIONAL DETAILS

24a. Scope Changed?No

24b. Project Name/Location Changed?No

Have ENVIRONMENTAL Clearance?NO

Have U&RR Clearance?YES

Have R/W Clearance?NO

Scoping Document Completed?YES

24c. Work Type Changed?No

24d. What is the current Stage?Post Stage IV

Have MATERIALS Memo?YES

Have C&S Approval?NO

Have CUSTOMIZED Schedule?NO

25. DESCRIPTION OF REQUEST:

Establish a new Construction Project.

26. JUSTIFICATION:

Construction of a climbing lane will improve traffic congestion resulting from slow vehicles. This has been scoped; improvements are necessary to improve traffic movement.

27. CONCERNS OF THE PROJECT TEAM REGARDING THE REQUEST:

28. OTHER ALTERNATIVES:

REQUESTED ACTIONS:

Change in FY.
Update/Establish Schedule.
Request to be in PPAC Agenda for 4/18/2012.
Change in Budget.

APPROVED/RECOMMENDED ACTIONS:

Item(s) Approved. Subject to PPAC Approval.

PRB APPROVED