

ARIZONA STATE TRANSPORTATION BOARD

AMENDMENT 12/17/2025

**STATE TRANSPORTATION BOARD
IN PERSON WITH OPTIONAL TELEPHONIC/WEBEX ATTENDANCE
BOARD MEETING
Town of Queen Creek
Community Chambers/Queen Creek Police Department Building
20727 Civic Parkway
Queen Creek, Arizona 85142
9:00 a.m., Friday, December 19, 2025**

Telephonic 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 board meeting open to the public on Friday, December 19, 2025, at 9:00 a.m. The Board may vote to go into Executive Session, which will not be open to the public. Members of the Transportation Board may attend in-person at 20727 Civic Parkway, Queen Creek, AZ 85142 or by telephone or video conference call. The Board may modify the agenda order, if necessary.

Public Participation Members of the public who want to observe or participate in the Transportation Board meeting can either attend in person or access the meeting by using the WebEx meeting link at www.aztransportationboard.gov. Join the meeting as a participant and follow the instruction to use your telephone to enable audio. For members of the public attending in person, physical access to the meeting place begins at 8:00 a.m.

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, December 19, 2025. The Board may, at its discretion, recess and reconvene the Executive Session as needed, relating to any items on the agenda.

*****Amendment to the State Transportation Board Agenda is as follows:**

***Item 9: Construction Contract**

9c: Synopsis of bid protest and notification letters

9n: recommended action to award bid to DBA Construction Inc. (DBA) - Synopsis of Protest Hearing attached.

District 1
Pavement Preservation
SR 51: I 10 to Shea Blvd.
F085801C
Bid Protest Synopsis

Low Bid: \$17,845,579.59 (Emery Sapp & Sons, Inc.)
Second Low Bid: \$ 32,703,555.78 (Acme Concrete Paving, Inc.)
Department Estimate: \$23,728,853
Difference (Low Bid & Department Estimate): -\$5,883,273.36
Percent Difference (Low Bid & Department Estimate): -24.8%

A bid protest letter was dated and received on **December 1, 2025** by State Engineer Gregory Byres. In this letter the second low bidder for this project, Acme Concrete Paving, Inc. (Acme), claimed that it was prevented from submitting its intended final bid with a “competitive, final price” on November 21, 2025 due to a fatal error within the AASHTOWare Project Bids system. Acme requested that ADOT (1) reject all bids, (2) correct the bid file/system error, and (3) re-advertise the project, or otherwise provide a mechanism allowing Acme and all other bidders to compete on equal terms.

It is the responsibility of the bidder to provide a successful submission of its electronic bid prior to the time specified for submission of bids. The bidder agrees that the Department bears no liability resulting from the bidder's failure to successfully submit an electronic bid.

Upon review of the letter, ADOT determined that the bid protest should be denied for failure to meet the ADOT Standard Specifications for Road and Bridge Construction.

Pursuant to the 2021 ADOT Standard Specifications for Road and Bridge Construction-

103.10 - A protest must be in writing and received by the State Engineer no later than seven calendar days after the opening of bids.

Protest was submitted on December 1 (day 10).

103.10 - Copies of the protest shall be sent by the protestant to every bidder, at the same time the protest is submitted to the State Engineer.

Acme failed to send a copy of protest letter to all bidders.

A copy of the bid protest received by the State Engineer’s Office and the response by the State Engineer is attached.



KATIE HOBBS
GOVERNOR

JENNIFER TOTH
DIRECTOR

December 9, 2025

Acme Concrete Paving, Inc.
4124 East Broadway
Spokane, WA 99202

RE: Bid Protest
051 MA 000 F085801C; 051 A NFA
SR 51 (Piestewa Freeway), I-10 to Shea Blvd.

Acme Concrete Paving, Inc.:

At the bid opening on November 21, 2025, Emery Sapp & Sons, Inc. (Emery) was read as the apparent low bidder on the subject project with a bid of \$17,845,579.59. The second low bidder was Acme Concrete Paving, Inc. ("Acme") with a bid of \$32,703,555.78.

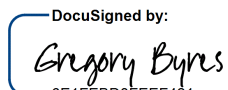
I am in receipt of a bid protest letter dated and received on December 1, 2025 from the second low bidder, Acme. Acme claims that it was prevented from submitting its intended final bid with a "competitive, final price" on November 21, 2025 due to a fatal error within the AASHTOWare Project Bids system. Acme requests that ADOT (1) reject all bids, (2) correct the bid file/system error, and (3) re-advertise the project, or otherwise provide a mechanism allowing Acme and all other bidders to compete on equal terms.

Pursuant to the requirements of Subsection 103.10 of the Standard Specifications, any protest related to a prospective award of a contract to the apparent low bidder must be received by the State Engineer no later than seven calendar days after the opening of bids. The bid protest by Acme was received by the State Engineer beyond the seven calendar day deadline. In addition, Acme failed to submit a copy of their bid protest to all bidders. For these reasons, the protest is denied.

I will recommend that the State Transportation Board award the contract to Emery Sapp & Sons, Inc. This project will be placed on the agenda for the December 19, 2025 meeting of the State Transportation Board. The State Transportation Board meetings are open to the public, and the Board will receive input from interested parties.

The meeting will proceed both in-person and virtually. The meeting will begin at 9:00 AM. The in-person meeting will be held at the Town of Queen Creek Law Enforcement-Community Chambers Building, 20727 Civic Parkway, Queen Creek, AZ 85142. For the information on how to attend the meeting virtually, visit the State Transportation Board website: <http://aztransportationboard.gov>

Sincerely,

DocuSigned by:

6E1FE8D8FEEF421...
Greg Byers, PE

Deputy Director for Transportation/State Engineer
Arizona Department of Transportation

cc: BECO
FHWA Area Engineer – Kimberly Utley
All Bidders

Attachment 1: Bid Protest Acme Concrete Paving, Inc. December 1, 2025

ATTACHMENT 1

ACME

Concrete Paving, Inc.



12/1/2025

Via Email: GByres@azdot.gov

Cc: SSunder@azdot.gov; contracts@azdot.gov; bsingh@azdot.gov

RE: Formal Bid Protest – ADOT Contract No. F085801C

Project: 051 MA 000 F085801C – SR 51 (Piestewa Freeway), I-10 to Shea Blvd.

Submitted pursuant to ADOT Standard Specifications (2021) §103.10

ATTN: Gregory Byres, P.E.

Acme Concrete Paving, Inc. (“Acme”) respectfully submits this formal bid protest for the above-referenced project pursuant to Section 103.10 of the 2021 ADOT Standard Specifications for Road and Bridge Construction.

Acme acknowledges that the seven (7)-calendar-day protest period under §103.10 likely concluded on Friday, November 28, 2025. However, this deadline fell immediately after the Thanksgiving holiday, during a period when many offices—both public and private—operate with limited staffing or are closed, and when normal business communication is significantly disrupted. These circumstances impeded Acme’s ability to meet the strict calendar-day timeline, despite Acme acting in good faith and making diligent efforts to evaluate and document the basis for its protest.

Acme respectfully submits that the intent and spirit of §103.10’s timing provision—ensuring protests are submitted promptly, generally within approximately five working days of bid opening—has been met. As explained in detail below, Acme requests that ADOT exercise its discretion to accept this protest in the interest of fairness, transparency, and the integrity of the competitive bidding process. Acme’s inability to submit its bid arose solely from a critical failure in the AASHTOWare Project Bids system and/or the ADOT-issued proposal files, not from any omission or delay on Acme’s part.

1. Summary of the Protest

Acme was prevented from submitting its intended final bid on November 21, 2025 due to a fatal error within the AASHTOWare Project Bids system, occurring between 9:20 AM PST and the 11:00 AM MST (10:00 AM PST) bid deadline. The error persisted despite immediate and sustained efforts by Acme, AASHTOWare Support, and Acme’s IT provider, Executech.

This system-level failure constitutes a material irregularity under §103.10 and directly deprived Acme of a fair opportunity to submit a competitive bid.

2. Critical Context: Acme Successfully Submitted a Full and Complete Bid Two Days Prior (November 19)

On Wednesday, November 19, 2025, Acme successfully submitted a complete and fully functional bid using:

- The same computer,
- The same AASHTOWare software installation, and
- The same ADOT-issued bid files

This submission resulted in the preliminary bid amount of \$32,703,555.78, which appears on the ADOT As-Read Bid Results page.

Purpose of the November 19 Submission

This early submission was intentional and served as a verification step to ensure:

- All bid form questions were answered correctly
- All required documents were uploaded
- The electronic bid bond was properly attached
- All addenda were acknowledged
- The bid passed AASHTOWare's internal checks
- Acme had fulfilled every controllable requirement for a valid submission

This is a standard internal quality-control practice used by Acme to ensure no software or procedural issues exist prior to finalizing pricing.

Placeholder Price

The amount submitted on November 19 was not Acme's intended final price. It was intentionally inflated and was submitted solely to confirm bid system readiness. Acme's competitive, final price was scheduled to be submitted the morning of November 21, after final internal review and pricing adjustments.

Importantly:

On November 19, the ADOT-provided AASHTOWare system worked flawlessly. On November 21, during submission of the final pricing, it failed catastrophically.

This contrast is central to the protest:

The system failed only at the moment of final submission—after having passed all prior checks successfully.

3. Detailed Timeline of Events on Bid Day (November 21, 2025 — All Times PST)

9:20 AM PST

Acme's Contract Administrator, Brenda Day, attempted to upload and validate Acme's revised final bid.

A fatal system error immediately prevented validation and submission.

9:20–9:54 AM PST

Brenda contacted AASHTOWare Customer Support.

Support Specialist Alexis Trumbull attempted multiple troubleshooting procedures.

The error persisted.

9:54 AM PST

AASHTOWare escalated the issue and initiated a Zoom call to attempt live resolution.

10:17 AM PST

With AASHTOWare's approval, Acme invited its IT provider, Executech.

Chris Sherwood joined the Zoom session.

Despite over 90 minutes of live, real-time assistance, the error could not be resolved. This is an ongoing, unresolved issue.

Phone Attempts

Acme's President, Robert Seghetti, attempted to contact ADOT shortly before the deadline.

Although he initially reached the wrong office, he obtained correct contact information only after bid time had passed.

Robert Seghetti detailed these facts to Shiva Sunder via email on November 25, following their conversation on bid day.

4. Evidence that the Failure Was Not Caused by Acme

The following facts demonstrate that the failure originated in the ADOT-provided bidding environment:

1. Acme had already successfully submitted a complete bid on November 19 using the exact same system.
 2. The error occurred only when attempting to submit the revised (final) pricing, not earlier.
 3. AASHTOWare Support spent over 90 minutes attempting to diagnose the root cause.
 4. The error that occurred—“**sequence contains more than one element**”—is a system-level exception that typically originates from conflicting or duplicate data structures within AASHTOWare’s processing of bid files. While Acme cannot determine the root cause without access to AASHTOWare’s internal diagnostics, the involvement of AASHTOWare Support and Executech, and the fact that Acme successfully submitted a complete bid two days earlier using the same system, strongly suggests that the failure originated within the AASHTOWare platform or its handling of the ADOT-issued proposal files, rather than any action or configuration on Acme’s part
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5. Basis of Protest Under ADOT 2021 Specifications §103.10

Section 103.10 permits protests concerning any:

“irregularity, error, or condition that materially affects the fairness of bidding or the opportunity of a bidder to submit a responsive bid.”

The system failure in this case:

- materially affected Acme’s ability to submit a responsive bid,
 - introduced an artificial and unfair barrier to competition, and
 - compromised the integrity of the letting process.
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6. Requested Relief

Acme respectfully requests that ADOT:

1. Reject all bids received,
2. Correct the bid file/system error, and
3. Re-advertise the project, or otherwise provide a mechanism allowing Acme and all other bidders to compete on equal terms.

7. Timeliness Acknowledgment and Request for Acceptance

Acme acknowledges that this protest falls outside the 7-calendar-day window. However, ADOT retains discretion under §103.10, and Acme requests acceptance of this protest because:

- Acme acted in good faith at all times
- Acme's inability to bid was caused by a systemic, agency-controlled irregularity
- Acme successfully submitted a complete bid two days prior using identical conditions
- The irregularity occurred only when Acme attempted to submit its final competitive price
- Rejecting this protest would preserve a letting outcome shaped by a technical failure, not by competition on the merits

Acme respectfully asserts that equity, fairness, and bid integrity strongly support allowing this protest to be heard.

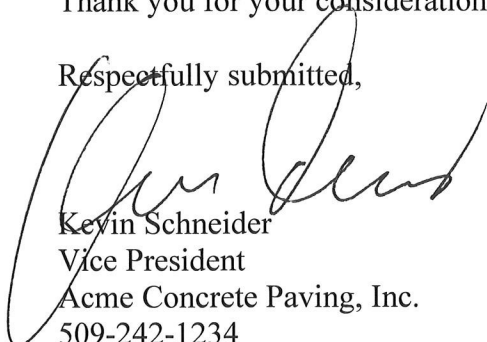
8. Request for Written Determination

Acme respectfully requests a written determination pursuant to §103.10. We have provided as attachment:

- Zoom logs/AASHTOWare correspondence
- Robert Seghetti Phone log from 11/21/25
- Robert Seghetti email to Shiva Sunder 11/25/25

Thank you for your consideration.

Respectfully submitted,



Kevin Schneider
Vice President
Acme Concrete Paving, Inc.
509-242-1234
kschneider@acmecpi.com

District 4
City of Apache Junction
Old West Hwy; Idaho Road to Goldfield Road
and Winchester Road; Old West Hwy to
Sixth Street Alignment
T024201C
Bid Protest Synopsis

Low Bid: \$2,818,888.60
Department Estimate: \$4,363,048.75
Difference: -\$1,544,160.15
% Difference: -35.4%

A bid protest letter dated **October 21, 2025** was timely received by ADOT State Engineer, Gregory Byres on the same date. In this letter, the second low bidder for this project, DBA Construction, Inc. (“DBA”), claimed errors in the NAICS codes entered in the Intended Participation Affidavit submitted by apparent low bidder, W.W. Clyde & Co. (“Clyde”), required rejection of Clyde’s bid as the errors failed to meet the DBE Special Provisions Section 14.01(C) requirement that the affidavit be “accurate and complete in every detail...” At the Arizona State Transportation Board (“Board”) hearing on November 21, 2025, Mr. Byres recommended rejecting all bids due to the protest. The Board directed Mr. Byres to hold a hearing pursuant to Section 103.10 of the Standard Specifications.

ADOT Deputy Director Stacy Guillen was appointed to serve as Mr. Byres’ designee for the hearing. Ms. Guillen sent by email and U.S. Mail hearing notices to Clyde and DBA on December 3, 2025, and the hearing was held at 9 a.m. on December 11, 2025. Both parties submitted timely written briefs to Ms. Guillen prior to the hearing. Clyde declined appearing at the hearing.

At the hearing, representatives from ADOT and DBA presented oral arguments, and Ms. Guillen took the arguments under advisement. On December 16, 2025, Ms. Guillen advised ADOT – and notified DBA and Clyde – that ADOT should recommend to the Board that the contract be awarded to DBA, as the errors in Clyde’s affidavit rendered it inaccurate and incomplete, thereby requiring its rejection. As DBA is the second low bidder, its affidavit is complete and accurate in every detail, and its budget does not exceed ADOT’s estimated budget for this project, DBA should be awarded the contract.

CONTRACTS

Contracts: (Action as Noted)

Federal-Aid ("A" "B" "T" "D") 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 9n: BOARD DISTRICT NO.: 4

BIDS OPENED: SEPTEMBER 05, 2025

HIGHWAY: CITY OF APACHE JUNCTION

SECTION: OLD WEST HWY; IDAHO RD TO GOLDFIELD RD AND WINCHESTER RD; OLD WEST HIGHWAY TO THE 6TH ST. ALIGNMENT

COUNTY: PINAL

ROUTE NO.: N/A

PROJECT : TRACS: APJ-0(217)T; 0000 PN APJ T024201C

FUNDING: 94.3% FED 5.7% STATE

LOW BIDDER: DBA CONSTRUCTION, INC.

LOW BID AMOUNT: \$ 3,620,748.15

STATE ESTIMATE: \$ 4,363,048.75

\$ UNDER ESTIMATE: \$ 742,300.60

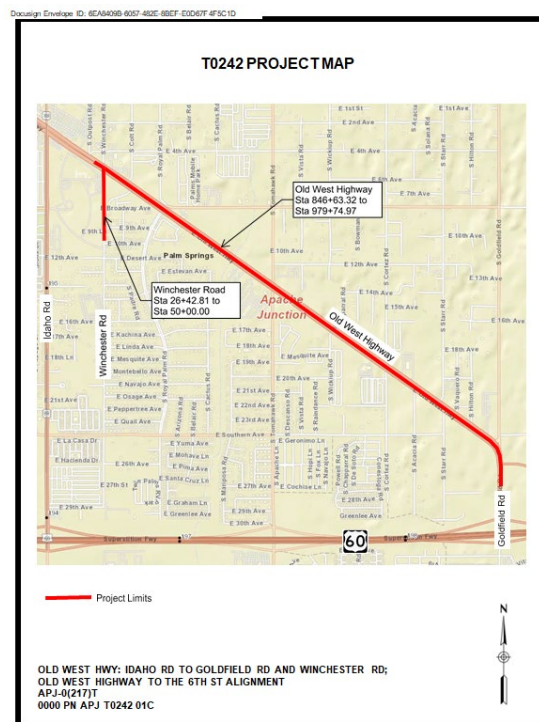
% UNDER ESTIMATE: 17.0%

PROJECT DBE GOAL: 10.01%

BIDDER DBE PLEDGE: 10.04%

NO. BIDDERS: 3

RECOMMENDATION: AWARD 2nd LOWEST BIDDER





ARIZONA DEPARTMENT OF TRANSPORTATION
PROJECT DELIVERY AND OPERATIONS DIVISION
CONTRACTS AND SPECIFICATIONS SECTION

BID RESULTS

Completion Date:

320 Working Days

The proposed work is located in the city of Apache Junction. The length of the project is 2.97 miles in total which includes work along Old West Highway, from Idaho Road on the west end to Goldfield Road on the east end of the project, and Winchester Road, from Broadway Avenue on the south end to Old West Highway on the north end. The work consists of constructing a new sidewalk along the south side of Old West Highway and on the west side of Winchester Road including sections that are attached with concrete curb and gutter and sections that are detached. The work includes several box culvert extensions, bridge railing, scuppers, pedestrian access ramps, guardrail modifications, seeding, signing and pavement markings, and other related work.

Bid Opening Date : 9/5/2025, Prequalification Required, Engineer Specialist : Yusuf Kadem

Project No.	Highway Termini	Location	Item
0000 PN APJ T024201C APJ-0-(217)T	CITY OF APACHE JUNCTION	Old West Hwy Idaho Rd to Goldf Central District	100840

Rank	Bid Amount	Contractor Name	Address of Contractor
1	\$3,620,748.15	D B A CONSTRUCTION INC.	1833 SOUTH 59TH AVENUE PHOENIX, AZ 85043-
2	\$4,167,420.00	GRANITE CONSTRUCTION COMPANY	4115 E ILLINOIS ST TUCSON, AZ 85714-
	\$4,363,048.75	DEPARTMENT	

NON RESPONSIVE	W. W. CLYDE & CO.	869 N. 1500 W. Orem, UT 84057-
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DBE Affidavit Inaccurate & Incomplete

Apparent Low Bidder is 17.0% Under Department Estimate (Difference = (\$742,300.60))