



KATIE HOBBS
GOVERNOR
JENNIFER TOTH
DIRECTOR

July 23, 2026

HAWK Contracting L.L.C.
Attn: Kristin Heim – Managing Member
1022 E. Loyola Drive
Tempe, AZ 85282
kheim@hawkcontractingllc.com
Sent via email.

Combs Construction Company L.L.C.
Attn: Ryan Combs – President
1903 W. Parkside Lane
Phoenix, AZ 85027
ryan@combsaz.com
Sent via email.

PROJECT: Prescott Ash Fork Highway S.R. 89 (999 YV 326 F076801C999-A(647)T)

RE: State Engineer's Response and Recommendation Letter

Ms. Heim and Mr. Combs,

At the bid opening for the Prescott Ash Fork Highway S.R. 89 Project ("the Project") on June 19, 2026, Combs Construction Company L.L.C. ("Combs") was read as the apparent low bidder, with a bid of \$795,500. The second low bidder was Earth Resources Corporation ("ERC"), with a bid of \$868,082. The third low bidder was HAWK Contracting L.L.C. ("HAWK"), with a bid of \$888,888.

HAWK timely submitted a bid protest letter on June 23, 2026. *See* Attachment 1; *see also* ADOT Standard Specification § 103.10. Combs timely submitted a response letter on June 26, 2026. *See* Attachment 2. HAWK, Combs, the Department, and all parties' legal counsel met and conferred in-person at the State Engineer's Office on July 16, 2026. For the following reasons, I recommend the State Transportation Board award the Project contract to Combs.

I. PRELIMINARY ISSUES.

A. HAWK was Eligible to Submit the Bid Protest Letter.

Combs argues that, prior to HAWK's bid protest, HAWK should have asked the Department to provide Combs' prequalification information. This would have been infeasible for HAWK. Contractor prequalification files are "strictly confidential." A.A.C. R17-3-204. Only seven authorized entities may access contractor prequalification files. A.A.C. R17-3-204. Authorized entities do not include other contractors.

B. The Department Website Page on Contractor Prequalification Is Not a Mandatory Requirement.

HAWK submits screenshots from the Department website page on contractor prequalification, which were taken on March 30, 2026. Attachment 1, Exhibits A – D. HAWK asserts the screenshots demonstrate that Combs' and ERC's contractor prequalification expired. Attachment 1, at 1 – 2. Combs retorts that the Department website is merely for administrative convenience. Attachment 2, at 2 ¶ 3.

There is no standard that designates the Department website as a requirement for contractor prequalification. *See, generally*, A.A.C. R17-3-201 – 204. The Department website is merely a voluntarily administrative effort to inform the general public.

II. ANALYSIS.

A. HAWK’s Bid Protest Asserts that Combs and ERC Are Not Prequalified.

In order to be able to bid on a highway construction project, a contractor must have contractor prequalification. “Contractor prequalification” means the “process of review and evaluation of a contractor's work history and current financial condition[.]” A.A.C. R17-3-201(A)(5).

HAWK claims the Project contract should not be awarded to Combs or ERC, because neither Combs nor ERC are prequalified. In particular, HAWK cites A.A.C. R17-3-202(B)(1). This regulation states that “[p]requalification expires 15 months after the end of a contractor’s fiscal year, as reflected on the financial statement.” For Combs and ERC, the end of the 15 months was March 31, 2026. HAWK further notes that, as of March 30, 2026, the Department website did not show Combs or ERC as prequalified.

Combs contests HAWK’s position via multiple alleged exceptions. Specifically, Combs cites several regulations and another statutory scheme. Combs also argues it relies upon a Department business practice where a contractor that timely submits its prequalification application remains prequalified until the Prequalification Board makes a determination.

B. The Contractors Each Allege Exceptions to Contractor Prequalification Expiration.

Both HAWK and Combs attempt to provide exceptions that would delay the expiration date of contractor prequalification. HAWK claims there is only one exception, and that Combs failed to meet the exception. Combs provides multiple exceptions, then argues that Combs meets all of the exceptions. Each of the parties’ alleged exceptions are individually addressed below.

i. The Contractor Prequalification Financial Statement Time Extension Is Not Pertinent to this Matter.

HAWK asserts that the only exception to contractor prequalification expiration is the financial statement time extension under A.A.C. R17-3-202(B). Attachment 1, at 1 ¶ (1).¹ This regulation pertains to a contractor obtaining a time extension because the contractor has “reasons for delay in preparing the examined financial statement[.]” A.A.C. R17-3-202(B)(1)(a).

In this matter, Combs did not encounter a delay in preparing its financial statement. Combs submitted its contractor prequalification application with an attached financial statement. Combs therefore did not need to obtain a financial statement time extension under A.A.C. R17-3-202(B). Consequently, this is not the exception to contractor prequalification expiration that conforms with the facts of this matter.

¹ A financial statement must be attached to a contractor prequalification application. A.A.C. R17-3-201(A)(1).

ii. The Department Is Not Required to Send a Decision Letter Before Contractor Prequalification Expiration.

Combs posits that its contractor prequalification cannot expire until the Prequalification Board must first provide written notice to the contractor and allow an opportunity for a hearing. To support its position, Combs cites the process for a contractor prequalification decision hearing. Attachment 2, at 2 ¶ 5; A.A.C. R17-3-202(G), 203(B). This process is:

“If a contractor is dissatisfied with the Board’s decision, the contractor may request a hearing within 15 days of receiving the Board’s decision. The hearing shall be conducted under A.R.S. § 41-1062.” A.A.C. R17-3-202(G)(1).

Combs conflates prequalification expiration versus the Board’s decision. A “decision” means “any action by an agency to grant or deny any request for permission, approval or authorization issued in response to any request from an applicant.” See A.R.S. § 41-1001(15). The Prequalification Board’s potential decisions may include: approval, disqualification, or reduction of contractor prequalification amount. A.A.C. R17-3-202(B)(2), 203.

In comparison, an “expiration” is the “ending of a fixed period of time,” or a “formal termination on a closing date.” EXPIRATION, Black’s Law Dictionary (12th ed. 2024). Many types of agency-issued approvals can expire. Longstanding Arizona judicial precedent authorizes an agency to require both renewal and reapplication upon expiration. *E.g., Bd. of Examiners of Plumbers of City of Phoenix v. Marchese*, 49 Ariz. 350, 361, 66 P.2d 1035, 1040 (Ariz. 1937). For contractor prequalification, it expires 15 months after the end of a contractor’s fiscal year. A.A.C. R17-3-202(B)(1).

The above evaluation can be synthesized together. If the Prequalification Board makes a decision against a contractor, it should provide the decision to the contractor and allow an opportunity for a hearing. To contrast, if a contractor does not timely reapply for prequalification, then the prequalification automatically expires.

In this matter, the Department did not decide to disqualify or reduce Combs’ or ERC’s contractor prequalification. This means the process for a contractor prequalification decision hearing is not germane.

iii. A.R.S. § 32-1125(A) Does Not Involve the Department and Should Not Be Applied Here.

Combs asserts A.R.S. § 32-1125(A) should be applied. Attachment 2, at 2 ¶ 4. This statute falls under Title 32, Chapter 10, Article 2, which demarcates the licensing procedures for the Arizona Registrar of Contractors. Since A.R.S. § 32-1125(A) applies to a different State agency, and there are already statutes on this matter that pertain to the Department, A.R.S. § 32-1125(A) is not directly relevant.

C. Under A.R.S. § 41-1064(B), Combs Timely Submitted its Contractor Prequalification Application.

Arizona statutory law controls this matter. Contractor prequalification is a “license” approved by the Department’s Prequalification Board. See A.R.S. § 41-1001(13) (Defining a “license” as “an agency permit, certificate, approval, registration, charter or other similar form of permission required by law”). For a license, specific processes are delineated. The process for license expiration is as follows:

“When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.” A.R.S. § 41-1064(B).

Combs and ERC were prequalified for 2025. Combs’ and ERC’s contractor prequalification expiration deadline was March 31, 2026. See A.A.C. R17-3-202(B). Combs and ERC timely submitted their applications by March 31, 2026. Because the contractors were prequalified, and timely submitted their applications, the contractors are prequalified at least until the Prequalification Board makes a determination. Thus, Combs and ERC were prequalified on: 1) the date each contractor requested to be a prime contractor; 2) the date each contractor was approved to be a prime contractor on the plasholders list; and 3) the date of the Project bid opening on June 19, 2026. This conclusion conforms with the Department’s longstanding business practice regarding contractor prequalification.

III. CONCLUSION.

On behalf of the Department, I recommend the State Transportation Board award the Project contract to Combs.

This Project will be placed on the agenda for the August 21, 2026 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 Prescott Valley Library, located at 7401 E. Skoog Boulevard, Prescott Valley, AZ 86314. For the information on how to attend the meeting virtually, visit the State Transportation Board website: <http://aztransportationboard.gov>

Sincerely,

DocuSigned by:
Audra Merrick
A6C0873E5BDD48E...

Audra Merrick, PE
State Engineer
Arizona Department of Transportation

CC: Attorneys for HAWK Contracting L.L.C.
Attn: Dickinson Wright
Josh Grabel
jgrabel@dickinsonwright.com
Sent via email.

CC: Attorneys for Combs Construction Company L.L.C.
Attn: Womble Bond Dickinson (US) L.L.P.
Robert F. Roos
robert.roos@wbd-us.com
Sent via email.

CC: All Bidders
ADOT SBWD
FHWA Area Engineer – Kimberly Utley
Sent via email.

Attachment 1



HAWK Contracting LLC

General Engineering Contractor
AZ ROC #308063

June 23, 2026

Arizona Department of Transportation
Intermodal Transportation Division
State Engineer's Office
206 South 17th Ave, Room 131A, MD 102A
Phoenix, AZ 85007

Attn: Ms. Audra Merrick, P.E., Deputy Director of Transportation/State Engineer

Project: 999 YV 326 F076801C 999-A(647)T – Prescott Ash Fork Highway (SR89)

Ms. Merrick,

In accordance with section 103.10 of the 2021 Arizona Department of Transportation Standard Specifications for Road and Bridge Construction, HAWK Contracting LLC (HAWK) which is a certified DBE contractor, is filing a written protest of any proposed award of the above referenced project to Combs Construction Company, LLC (Combs) and Earth Resources Corporation (ERC). Although Combs was the apparent low bidder on the project and ERC was the second bidder, neither company is currently prequalified with Department at the time of bid. As such, Combs and ERC were not eligible to bid this project and are therefore not eligible to be awarded the contract for the project as per the ADOT Intermodal Transportation Division Rules for Prequalification of Contractors (R17-3-201 thru R17-3-204). In short, Combs and ERC are not responsive or responsible bidders.

The basis of our protest is as follows:

1. Combs is not an ADOT Prequalified contractor at the time of the bid of the referenced project.

As per exhibit A (screen shot of Combs prequalification on ADOT website from 3/30/26), Combs prequalification expiration date is 3/31/26. Section R17-3-202 (C) (1) of the ADOT Intermodal Transportation Division Rules for Prequalification of Contractors allows a 60-day extension of prequalification upon request from the Contractor. Assuming an extension was requested and granted, the 60-day period would have ended on 5/31/26. The Rules do not allow any additional extension so Combs prequalification would have expired on 5/31/26 unless a current prequalification application was submitted and approved by the Department. As per exhibit B (screen shot of the ADOT website



HAWK Contracting LLC

General Engineering Contractor
AZ ROC #308063

from 6/19/26), Combs is not listed as a prequalified contractor. As such, Combs prequalification is expired at the time of bid and is ineligible to bid or receive an award for this project as per the Rules for Prequalification of Contractors and the project ad which states, "To submit a valid bid, the bidder must (1) have prequalification from the Department as necessary for the project..." .

2. ERC is not an ADOT Prequalified contractor at the time of the bid of the referenced project.

As per exhibit C (screen shot of ERC prequalification on ADOT website from 3/30/26), ERC prequalification expiration date is 3/31/26. Section R17-3-202 (C) (1) of the ADOT Intermodal Transportation Division Rules for Prequalification of Contractors allows a 60-day extension of prequalification upon request from the Contractor. Assuming an extension was requested and granted, the 60-day period would have ended on 5/31/26. The Rules do not allow any additional extension so ERC prequalification would have expired on 5/31/26 unless a current prequalification application was submitted and approved by the Department. As per exhibit B (screen shot of the ADOT website from 6/19/26), ERC is not listed as a prequalified contractor as there are no contractors beginning with the letter E prequalified. As such, ERC prequalification is expired at the time of bid and is ineligible to bid or receive an award for this project as per the Rules for Prequalification of Contractors and the project ad which states, "To submit a valid bid, the bidder must (1) have prequalification from the Department as necessary for the project..." .

Both Combs and ERC submitted their request to bid the project in May when their prequalification was still active and the Department subsequently approved the request to bid. Both Combs and ERC prequalification lapsed prior to the project bid and therefore both referenced bidders are not eligible to bid this project. The other bidders should not be penalized due to the referenced bidders failing to submit a timely prequalification packet to the Department.

For these reasons, HAWK formally protests the award of the referenced contract to Combs Construction Company, LLC and Earth Resources Corporation and requests that the Department award the project to HAWK Contracting LLC who is the lowest, responsive, responsible and prequalified bidder.

HAWK Contracting LLC appreciates the opportunity to provide contracting services to the Department and looks forward to the opportunity to perform this scope of work. If you have any questions regarding this submittal or require additional information, please feel free to contact me at (480) 501-2481.



HAWK Contracting LLC

General Engineering Contractor
AZ ROC #308063

Respectfully,

A handwritten signature in blue ink, appearing to read "Kristin Heim", with a stylized flourish at the end.

Kristin Heim
Managing Member
HAWK Contracting LLC

CC: Combs Construction Company LLC (Email and Certified Mail)
Earth Resources Corporation (Email and Certified Mail)
Asphalt Paving & Supply (Email and Certified Mail)
Standard Construction Co (Email and Certified Mail)
Sunland Asphalt and Construction (Email and Certified Mail)
ADOT SBWD Office (Email and Certified Mail)

Exhibit A - Screen Shot of Combs Prequalification on ADOT Website on 3/30/26

CKC CONSTRUCTION & MATERIALS LLC 1234 E. AIRPORT ROAD SAFFORD, AZ 85546 Tel: (928) 428-3423 Fax: (928) 428-3429		ASPHALT CONCRETE PAVING	3/31/2026
		ASPHALT SURFACE TREATMENTS	3/31/2026
		GRADING & DRAINING	3/31/2026
		MINOR CONCRETE STRUCTURES	3/31/2026
		MISC. CONCRETE, SIDEWALK, CURB, GUTT	3/31/2026
Pre-Qualified Company	Work Type	Expiration Date	
COFFMAN SPECIALTIES, INC. 9685 VIA EXCELENCIA, SUITE 200 SAN DIEGO, CA 92126 Tel: (858) 536-3100 Fax: (858) 536-3131	ALL CLASSES OF CONSTRUCTION	3/31/2026	
Pre-Qualified Company	Work Type	Expiration Date	
COMBS CONSTRUCTION COMPANY, INC. 1903 WEST PARKSIDE LANE, SUITE #100 GLENDALE, AZ 85027 Tel: (602) 237-4029 Fax: (602) 237-4182	ALL CLASSES OF CONSTRUCTION	3/31/2026	

Exhibit B - Screen Shot of Prequalified Contractors for "C" on ADOT Website on 6/19/26

A C D F G H I K L M N P R S T W Others

Pre-Qualified Company	Work Type	Expiration Date
C S CONSTRUCTION, INC. 22023 N 20TH AVE SUITE A PHOENIX, AZ 85027 Tel: (623) 889-7650 Fax: (623) 889-7651	ALL CLASSES OF CONSTRUCTION	3/31/2027
Pre-Qualified Company	Work Type	Expiration Date
COFFMAN SPECIALTIES, INC. 9685 VIA EXCELENCIA, SUITE 200 SAN DIEGO, CA 92126 Tel: (858) 536-3100 Fax: (858) 536-3131	ALL CLASSES OF CONSTRUCTION	3/31/2027
Pre-Qualified Company	Work Type	Expiration Date
CONTRACTORS WEST, INC. 1830 W. BROADWAY RD. MESA, AZ 85202 Tel: (480) 969-6300 Fax: (480) 969-7300	ELECTRICAL INTELLIGENT TRANSPORTATION SYSTEMS SIGNING UNDERGROUND	3/31/2027 3/31/2027 3/31/2027 3/31/2027

Exhibit C - Screen Shot of ERC Prequalification on ADOT Website on 3/30/26

EARTH RESOURCES CORPORATION 300 S. LATILLA LANE Dewey, AZ 86327 Tel: (928) 775-2795 Fax: (928) 268-3487	ASPHALT CONCRETE PAVING	3/31/2026
	ASPHALT SURFACE TREATMENTS	3/31/2026
	FENCING	3/31/2026
	GRADING & DRAINING	3/31/2026
	MINOR CONCRETE STRUCTURES	3/31/2026
	MINOR SIGNING	3/31/2026
	MISC. CONCRETE, SIDEWALK, CURB, GUTT	3/31/2026
	UNDERGROUND	3/31/2026
Pre-Qualified Company		Expiration Date
ELLISON-MILLS CONTRACTING, LLC. 3152 N. LEAR AVE, SUITE 2 CASA GRANDE, AZ 85122 Tel: (520) 876-4004 Fax:	GRADING & DRAINING	3/31/2026
	MINOR SIGNING	3/31/2026
	MISC. CONCRETE, SIDEWALK, CURB, GUTT	3/31/2026
	UNDERGROUND	3/31/2026
Pre-Qualified Company		Expiration Date

Exhibit D - Screen Shot of ADOT Website on 6/19/26 Showing No Contractors Beginning with "E"



HOME

PROJECTS

BUSINESS

PLANNING

CONTACT US

Traffic Conditions

Motor Vehicle Division

Prequalified Contractors

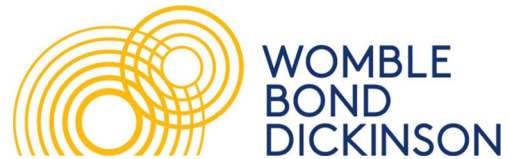
To view the list of Pre-Qualified Contractors, click on the first letter of the contracting company.

A C D F G H I K L M N P R S T W Others

Last Updated 6/19/2026 11:36 AM

Attachment 2

womblebonddickinson.com



June 26, 2026

Womble Bond Dickinson (US) LLP

201 East Washington Street
Suite 1200
Phoenix, AZ 85004

VIA U.S. MAIL AND E-MAIL:

amerrick@azdot.gov
bsingh@azdot.gov
csgroup@azdot.gov

Audra Merrick, P.E.
Brahama Singh
Arizona Department of Transportation
Intermodal Transportation Division
State Engineer's Office
206 South 17th Ave, Room 131A, MD 102A
Phoenix, Arizona 85007

Robert F. Roos
Partner
Direct Dial: 602-262-5779
Direct Fax: 602.262.5747
E-mail: Robert.Roos@wbd-us.com

RE: Prescott Ash Fork Highway SR89 (999 YV 326 F076801C999-A(647)T)

Combs Construction Company's Response to Hawk Contracting's Bid Protest

Dear Ms. Merrick and Ms. Singh:

Womble Bond Dickinson represents Combs Construction Company LLC ("Combs"). This letter responds to the bid protest filed by Hawk Contracting LLC ("Hawk") dated June 23, 2026, regarding the above-referenced project (the "Project"). For the reasons set forth below, and because Combs bid was responsive, Combs is a responsible bidder and Combs was the apparent low bidder, Hawk's protest should be denied. Combs remains fully prequalified with the Arizona Department of Transportation ("ADOT") and should be awarded the contract for the Project.

Combs has been prequalified with ADOT for many years and is prequalified to perform all classes of construction. This means that ADOT's Prequalification Board has had the opportunity to review Combs work history and financial condition on an annual basis for many years, approving and renewing Combs' status each year. Combs has grown substantially over the years and has a remarkable record and reputation performing work on ADOT projects, and nothing has occurred that would support or even suggest any change in Combs' prequalification status.

Combs timely submitted its prequalification renewal application on March 31, 2026, satisfying the applicable renewal deadline. ADOT has had Combs' timely application in hand and ready for review and approval since that time, and under the applicable Rules as administered by ADOT for many years, Combs remains prequalified while the application awaits that review. In fact, when Combs submitted its request to bid on the Project in May 2026, ADOT released a bid package to Combs and then accepted and read Combs bid when it was submitted at bid time. ADOT would not have acted in this manner if Combs were not prequalified.

Combs has had several communications with ADOT personnel about its prequalification to ensure that Combs remains prequalified. First, Combs received written confirmation of receipt of its prequalification application shortly after it was submitted. That email confirmed receipt of the application and notified



Combs that the Prequalification Board would be reviewing applications through July 2026. Second, Nikole Costa spoke with Corrina De Leon on June 22, 2026. Ms. De Leon explained that ADOT has over 55 prequalification renewal applications pending review and that Combs remains fully prequalified with ADOT and able to bid on and be awarded ADOT projects during the review period. This is consistent with Combs' historical experience with the renewal process.

ADOT's prequalification rules define "contractor prequalification" as the Department's own process of reviewing and evaluating a contractor's work history and financial condition before the contractor may bid. AAC R17-3-201.A.5. The authority to determine whether a contractor is prequalified rests with ADOT, and specifically with the Board, not with a competing bidder. When ADOT confirms that a contractor's prequalification continues, that determination reflects the considered judgment of the agency empowered to make the determination.

Evidently, ADOT's on-line prequalification list was recently revised, and a number of prequalified firms, including Combs, whose applications were timely submitted but not yet reviewed were not included on the published list notwithstanding that they remain prequalified. ADOT's prequalification regulations do not reference an online and nothing in the Regulations render an on-line list as conclusive of the prequalification status of any contractor. The online list is merely an administrative convenience and does not override the Board's formal determination or substitute for the written notifications and communications required by regulations.

ADOT's conclusion and its practice that a contractor who timely renews its prequalification status remains qualified during review is consistent with how Arizona treats diligent renewers across regulated fields. In the closely parallel context of contractor licensing, Arizona law expressly provides that a contractor who files a timely, complete renewal application remains authorized to operate "until actual issuance of the renewal license," placing the risk of agency processing time on the agency rather than the diligent applicant. See A.R.S. § 32-1125(A). ADOT's treatment of Combs fits squarely within this established framework. No basis exists under Arizona law to convert the prequalification application backlog into a substantive disqualification of a diligent contractor, and it certainly does not allow a competitor to demand that result. ADOT's confirmation that Combs remains prequalified is therefore not only correct on its own terms but also fully aligned with Arizona's settled approach to timely renewals.

Under R17-3-203 of the Arizona Administrative Code, prequalification may only be reduced or revoked on specific, enumerated grounds, including falsification of documents, failure to enter into a contract, default on a prior public contract, unsatisfactory performance, or failure to notify the Board of material changes. None of these grounds applies even remotely to Combs. Moreover, ADOT has not initiated any disqualification proceedings against Combs. Under R17-3-203(B), before the Board may reduce or disqualify a contractor, it must provide written notice and an opportunity for a hearing. No such notice has been issued.

Because Combs was prequalified at the time it bid and remains prequalified now, the protest identifies no valid ground to disturb the award, and it should be denied. Combs remains fully prequalified with ADOT, as ADOT's representative has confirmed. Hawk's protest is without merit and should be denied. Combs respectfully requests that ADOT deny Hawk's protest and proceed with the award of the Project to Combs as the lowest responsive and responsible bidder.

Audra Merrick, P.E.
June 26, 2026
Page 3



Very truly yours,

Womble Bond Dickinson (US) LLP

A handwritten signature in blue ink, appearing to read 'Robert F. Roos'.

Robert F. Roos

RFR/JCM