

AGENDA
STATE TRANSPORTATION BOARD MEETING
9:00 a.m., Friday, January 21, 2011
City of Nogales Council Chambers
777 North Grand Avenue
Nogales, Arizona 85621

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, January 21, 2011, 9:00 a.m., at the City of Nogales Council Chambers, 777 North Grand Avenue, Nogales, Arizona 85621. 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, January 21, 2011. 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 below:

CORRECTION TO BOARD MEETING ADDRESS:

The correct address to the City of Nogales Council Chambers is:

777 North Grand Avenue
Nogales, Arizona 85621

CHANGE TO 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 12a:** BIDS OPENED: December 10
HIGHWAY: YUMA-CASA GRANDE HIGHWAY (I-8)
SECTION: State Line to Fortuna Road
COUNTY: Yuma
ROUTE NO.: I-8
PROJECT: IM-ARRA-008-A(206)A 008 YU 000 H779301C
FUNDING: 100% ARRA

	Low Bidder	Second Low Bidder
LOW BIDDER:	Meadow Valley Contractors, Inc.	Fann Contracting, Inc.
AMOUNT:	\$ 10,994,201.00	\$ 11,026,088.75
STATE AMOUNT:	\$ 11,683,881.00	\$ 11,683,881.00
\$ UNDER :	\$ 689,680.00	\$ 657,792.25
% UNDER:	5.9%	5.6%
NO. BIDDERS:	10	10

RECOMMENDATION: Reject Fann’s Protest and Award the Contract to Meadow Valley Contractors, Inc.

COMMENTS:

On December 10, 2010 bids were opened on the above referenced project. At the bid opening, Meadow Valley Contractors, Inc. was read as the apparent low bidder with a bid of \$10,994,201.00. The second low bidder was Fann Contracting, Inc. with a bid of \$11,026,088.75.

Subsequent to the bid opening, Fann Contracting submitted a formal bid protest. The bid protest states that Meadow Valley submitted a bid that was mathematically and materially unbalanced, and that Meadow Valley’s bid should be rejected. Fann Contracting requested that the Department reject Meadow Valley’s bid and award the project to Fann Contracting.

A bid is determined to be mathematically unbalanced if it does not “reflect reasonably anticipated actual costs plus a reasonable proportionate share of the bidder’s anticipated profit, overhead costs, and other indirect costs.” Refer to ADOT Standard Specifications, Subsection 101.02.

A bid is materially unbalanced if the bid generates “a reasonable doubt that an award to the bidder submitting a mathematically unbalanced bid will result in the lowest ultimate cost to the Department.” Refer to ADOT Standard Specifications, Subsection 101.02.

The bid protest concerns Item 4040116 – Apply Bituminous Tack Coat. It continues by claiming that Meadow Valley’s unit price of \$50 per hour is artificially low, that it does not reflect Meadow Valley’s reasonably anticipated actual costs, and that Meadow Valley did this because they believe the estimated quantity would result in an underrun.

Fann uses the unit prices on Meadow Valley's last 24 projects as evidence that Meadow Valley unbalanced its bid on this project. The unit prices on the last 24 projects would have been determined differently than this project since Meadow Valley just purchased an asphalt distributor truck for this project. While \$50 per hour is lower than Meadow Valley's previous bids, it can be at least partially explained by the fact that Meadow Valley now owns an asphalt distributor truck. Also, another bidder submitted a bid of \$50 per hour and the range of all the bidders was \$50 to \$220. Fann indicates that its bid of \$105 per hour was based on the use of a third-party asphalt distributor truck.

Meadow Valley claims that a bid can only be determined to be mathematically unbalanced if the Department identifies both overestimated and underestimated bid items on a project. The Department does not agree with this position, but it does not affect our conclusion in this case.

In addition, Fann claims that a contractor should be reasonably expected to average 3,200 tons per day of asphalt placement. Using this production rate, Fann calculated a quantity for Apply Bituminous Tack Coat of 352 hours.

Applying these two assumptions (an asphalt placement rate of 3,200 tons per day and 352 hours of applying tack coat), Fann's total cost would be \$1,552.25 lower than Meadow Valley's total cost. Because numerous factors are involved, these assumptions are questionable.

While the Department analyzes every bid as part of its post-bid process, including mathematical and material unbalancing, it cannot explore every possible "what if" scenario in an attempt to determine whether a different contractor might be the apparent low bidder. For example, on a project for which the bid totals are very close, small quantity variations on multiple items could produce varying results. Each project is analyzed to determine the lowest responsive and responsible bidder, and an award recommendation is based on that overall assessment.

In addition, Meadow Valley states that the quantity of Riprap (Grouted) should over run the bid schedule quantity by 1,978 CY. Meadow Valley bid \$110 and Fann bid \$160 for this item of work. Based on these prices, Fann's bid would increase by \$98,900 relative to Meadow Valley's bid. The Department independently determined that the Grouted Riprap quantity should have been 2,420 CY more than the amount shown in the bid schedule, which would increase Fann's bid by \$121,000 relative to Meadow Valley's bid.

After reviewing Fann's protest and analyzing the bids, no reasonable cause has been determined to substantiate Fann's protest. Therefore, the State Engineer recommends rejecting Fann's protest and awarding the contract to Meadow Valley Contractors.

***ITEM 12b:** BIDS OPENED: December 10
HIGHWAY: TOPOCK-KINGMAN HIGHWAY (I-40)
SECTION: Junction SR 95 – Walnut Creek, EB
COUNTY: Mohave
ROUTE NO.: I-40
PROJECT: IM-040-A(204)A 040 MO 008 H766201C
FUNDING: 94% Federal 6 % State

	Low Bidder	Second Low Bidder
LOW BIDDER:	FNF Construction, Inc.	Fann Contracting, Inc.
AMOUNT:	\$ 9,404,806.59	\$ 9,772,832.85
STATE AMOUNT:	\$ 10,775,892.90	\$ 10,775,892.90
\$ UNDER:	\$ 1,371,086.31	\$ 1,003,060.05
% UNDER:	12.7%	9.3%
NO. BIDDERS:	3	3

RECOMMENDATION: Reject Fann’s Protest and Award the Contract to FNF Construction, Inc.

COMMENTS:

On December 10, 2010 bids were opened on the above referenced project. At the bid opening, FNF Construction, Inc. was read as the apparent low bidder with a bid of \$9,404,806.59. The second low bidder was Fann Contracting, Inc. with a bid of \$9,772,832.85.

Subsequent to the bid opening, Fann Contracting submitted a formal bid protest. The bid protest states that FNF Construction submitted a bid that was mathematically unbalanced, and that FNF’s bid should be rejected. Fann Contracting requested that the Department reject FNF’s bid and award the project to Fann Contracting.

A bid is determined to be mathematically unbalanced if it does not “reflect reasonably anticipated actual costs plus a reasonable proportionate share of the bidder’s anticipated profit, overhead costs, and other indirect costs.” Refer to ADOT Standard Specifications, Subsection 101.02.

The bid protest concerns Item 7015010 – Temporary Concrete Barrier (Install & Remove), Item 7015020 – Temporary Impact Attenuators (Install & Remove), Item 7016020 - Temporary Concrete Barrier (In Use), and Item 7016021 – Temporary Impact Attenuators (In Use).

In its letter, Fann states that the quantities for these items were significantly reduced or eliminated on the adjacent WB I-40 project constructed by FNF. However, based on the information provided by FNF, and verified by the Department, this statement is incorrect. The Department verified that the final quantity, as compared to the original bid quantity, for each item of concern was as follows:

Temporary Concrete Barrier (Install & Remove)	98%
Temporary Impact Attenuators (Install & Remove)	100%
Temporary Concrete Barrier (In Use)	97%
Temporary Impact Attenuators (In Use)	93%

Fann also contended that FNF had knowledge that the quantities for these items would be nearly eliminated for this project. The Department does not anticipate significant quantity reductions in the items of concern for this project. Finally, FNF's letter provides reasonable documentation regarding the manner in which their unit prices were determined on this project, as well as the adjacent WB I-40 project. Therefore, the Department finds no validity to Fann's claim of mathematically unbalanced bids by FNF, and concludes that the protest should be denied.

The State Engineer does not consider FNF's bid to be mathematically unbalanced. Therefore, the State Engineer recommends rejecting Fann's protest and awarding the contract to FNF Construction.

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 12c:** BIDS OPENED: December 10
HIGHWAY: ORACLE JUNCTION-FLORENCE HIGHWAY (SR 79)
SECTION: Milepost 124.1 to Milepost 125.7, Phase 2
COUNTY: Pinal
ROUTE NO.: SR 79
PROJECT: HSIP-079-A(203)A 079 PN 124 H731001C
FUNDING: 94% Federal 6% State

	Low Bidder	Second Bidder
LOW BIDDER:	Aloha Grading, Inc.	Bison Contracting Co., Inc.
AMOUNT:	\$ 364,296.61	\$ 512,555.55
STATE AMOUNT:	\$ 543,475.00	\$ 543,475.00
\$ UNDER:	\$ 179,178.39	\$ 30,919.45
% UNDER:	33.0%	5.7%
NO. BIDDERS:	11	11

RECOMMENDATION: Reject Bison's Protest and Award the Contract to Aloha Grading, Inc.

COMMENTS:

On December 10, 2010 bids were opened on the above referenced project. At the bid opening, Aloha Grading, Inc. was read as the apparent low bidder with a bid of \$364,296.61. The second low bidder was Bison Contracting Co. Inc. with a bid of \$512,555.55.

Subsequent to the bid opening, Bison Contracting submitted a formal bid protest. The protest claims that Aloha Grading is not prequalified with the Department to perform the work described in the Advertisement for Bids. Furthermore, Bison requests that Aloha's bid be rejected and that the project be awarded to Bison Contracting.

The proposed work for this project is the extension of concrete box culverts. Aloha Grading is prequalified with the Department for Grading, Draining, Asphalt Concrete Paving, Underground, Miscellaneous Concrete, and Minor Concrete Structures.

The Prequalification rules establish two work categories for structures: bridges and minor concrete structures. For purposes of prequalification, concrete box culverts are not classified as bridges. Therefore, prequalification for bridges is not required for this project.

Bison's protest is founded on the basis that Aloha Grading is not pre-qualified to construct major structures, and that the extension of concrete box culverts constitutes the construction of major structures. But the Prequalification rules only include the two categories: minor concrete structures and bridges.

The protest cites Subsection 601-1 of the Standard Specifications and the ADOT Construction Manual as its documentation that concrete box culverts are major structures. Subsection 601-1 provides examples of some minor structures, but does not define a major structure. The Construction Manual is not a contract document. Neither document characterizes concrete box culvert extension as bridge construction.

Aloha Grading is prequalified with the Department for Minor Concrete Structures. The Department considers the types of work for which Aloha Grading is prequalified to be appropriate for this project. Therefore, the State Engineer recommends rejecting Bison's protest and awarding the contract to Aloha Grading.

Dated this 19th day of January, 2010.
STATE TRANSPORTATION BOARD
By: Mary Currie