

## Competition in the Marketplace

May 13, 2011 – The American Concrete Pavement Association (ACPA) supports the view that competition in the transportation-construction marketplace is important, not only because it assures the highest return on investment of taxpayer dollars, but also because it fosters innovation, which further increases value to agency/owners and the traveling public. Additional perspectives on this topic follow:

### History and Other Background

- An early document that supports the concept of competition as a means of realizing savings and driving innovation in the highway sector can be seen in “An Informational Guide on Project Procedures,”<sup>1</sup> published in 1960 by the American Association of State Highway Officials or AASHO (now the American Association of State Highway and Transportation Officials.)
- The main purpose of the guide is to ensure that highway dollars are spent as efficiently as possible, which is best stated in the guide’s introduction: “It is imperative that all possible and proper measures be taken to ensure the tax payers of this country that they are receiving full value of every highway dollar spent.”
- The guide provides some still relevant and perennially useful guidance on the topic of pavement type selection and stewardship. In fact, the document is particularly relevant for Federal-aid highway projects, as it is referred to directly in current federal policy on pavement type selection.<sup>2</sup>
- This Federal policy revolves around four key issues:
  - Pavement type selection should be based upon an engineering evaluation considering the factors contained in the guide;
  - Pavement type determination should include an economic analysis based on life cycle costs of pavements;
  - The economic analysis and pavement type selection should be updated just prior to advertising; and
  - Where [appropriate], alternate bids may be permitted, if requested by the contracting agency.
- The guide’s section V (Cost Comparison) conveys the virtues of considering cost on the basis of service life or service rendered by a pavement structure, but cautions that “doubt as to the validity [of such analyses] arises in the case where on[e] type of pavement has been given monopoly status by the long-term exclusion of a competitive type.”

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<sup>1</sup> “An Informational Guide on Project Procedures: A guide for the review of certain administrative, inspection, and documentation practices in use by state highway departments with particular attention to contract construction, pavement type selection, and right-of-way acquisition,” American Association of State Highway Officials (AASHO), Nov. 26, 1960.

<sup>2</sup> FHWA Pavement Type Selection Policy Statement, dated October 8, 1981.

- Moreover, the Guide acknowledges the value that competition between paving industries provides to owners. In section VI (Stimulation of Competition,) the guide states: “It is desirable that monopoly situations be avoided, and that improvement in products and methods be encouraged through continued and healthy competition among industries involved in the production of paving materials.”
- In a select number of states, this healthy and spirited competition among industries involved in the production of paving materials is alive and well. These states recognize the benefit of competition between industries and incorporate it directly into their pavement type selection process.
- An evaluation of bid price tabulations publically available from state departments of transportation reveals that competition does not exist in all regions. The situation is especially worrisome in our current climate of continually dwindling infrastructure resources and normal increases in construction costs.

#### ACPA’s Positions and Other Perspectives

- ACPA maintains that there are significant opportunities to ensure maximum return on highway investments if transportation departments prioritize healthy and spirited competition between paving industries. The opportunities for cost savings under the Federal-aid program could be quite significant, as evidenced by states such as Iowa, Wisconsin, Louisiana and Missouri and others that have saved hundreds of millions of dollars by instilling industry competition into their processes.<sup>3,4</sup>
- FHWA’s current pavement type selection policy is equipped to address the serious challenges associated with the lack of competition. There is no need to re-write or change Federal policy; it is satisfactory the way it is. The policy just needs to be reaffirmed and enacted uniformly among those entrusted with making pavement type selection decisions.
- The current policy acknowledges the process outlined in the 1960 AASHO document, and is flexible enough to allow for proper consideration of all factors in pavement type determinations, including competition. Whether this is done overtly or programmatically, or through some innovative contracting mechanism really does not matter.
- The goal is still the same: “Ensure the tax payers of this country that they are receiving full value of every highway dollar spent.” America was built on the principle of open competition, and our surface transportation infrastructure would benefit from a ‘level playing field’ regardless of the normal fluctuations of either a robust or recessed economy.

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<sup>3</sup> Temple, William, “Alternate Design-Alternate Bid”, Presentation to ACPA Annual Meeting, Nov. 30, 2007.

<sup>4</sup> Ahlvers, Dave, “MODOT Alternate Pavement Approach”, Presentation to AASHTO Subcommittee on Construction, Summer 2009.