



STATE OF CONNECTICUT
OFFICE OF GOVERNMENTAL ACCOUNTABILITY
STATE CONTRACTING STANDARDS BOARD

Draft
Minutes

Friday, December 14, 2018 Meeting of the State Contracting Standards Board
5th Floor Conference Room
18-20 Trinity Street, Hartford, Connecticut

Members Present:

Lawrence Fox, Chair
Alfred Bertoline
Bruce Buff
Charles Casella, Jr.
Albert Ilg
Stuart Mahler
Jean Morningstar
Robert Rinker
Brenda Sisco

David L. Guay, Executive Director - ex-officio board member

1. Call to order

Meeting called to order by Chair Lawrence Fox at 10:02 A.M. and called for a moment of silence on the sixth anniversary of the Sandy Hook tragedy.

2. Approve the Minutes of the November 9, 2018 Meeting

Motion made by Alfred Bertoline and seconded by Bruce Buff to approve the minutes of the November 9, 2018 Board meeting. All voted in favor.

3. Report of the Privatization Contract Committee

Chair Fox noted that the Privatization Contract Committee did not meet last month because of the scheduled hearing, but will be meeting after this meeting ends.

4. Report from the Sec. 4e-36 Contested Solicitations and Awards Subcommittee

Subcommittee Chair Robert Rinker began his report by noting copy of our decision in the matter of Civic Mind, LLC and CRDA was emailed to you, but other issues have arisen since the decision was issued.

Civic Mind, LLC contested the award to the Hartford Sports Group based upon an RFP issued by the Capital Region Development Authority on behalf of the City of Hartford. The RFP was issued on September 15, 2017 and proposals were due on October 13, 2017. Three proposals were received by CRDA. On December 1, 2017, CRDA recommended to the City of Hartford, the Hartford Sports Group.

Subsequently, Civic Mind, LLC contested the award based upon:

1. The Hartford Sports Group did not timely respond to the RFP by 2:00 p.m. on October 13, 2017, and
2. The Hartford Sports Group proposal was not responsive to the RFP.

At the Subcommittee meeting on November 20, 2018, Civic Mind, LLC raised issues of collusion between CRDA, the City of Hartford and the Hartford Sports Group. Under the Board's statutes, C.G.S. 4e-31, Civic Mind, LLC can pursue this matter with Connecticut's Attorney General.

On November 20th, the Subcommittee met and issued a decision dated November 21st. The Subcommittee dismissed the claim of an untimely submission by the Hartford Sports Group. The claim was dismissed because Civic Mind, LLC knew and represented that they knew in 2017 that the Hartford Sports Group had submitted a proposal. Such a claim has to be brought before the Subcommittee within 14 days of knowing or should have known of the circumstance giving rise to the claim.

The Subcommittee recommended to CRDA to adopt a best business practice of date/time stamping proposals. Other claims were dismissed without prejudice because the Subcommittee did not have an executed contract to properly evaluate the other claims.

The Subcommittee is under a 30 day requirement to respond to claims brought before the Subcommittee.

Subsequently, Mr. Lender in his weekly column found that Mr. Mandell and his immediate family, Mr. Mandell is a principal in the Hartford Sports Group, had donated around \$37,000 to gubernatorial candidate Bob Stefanowski and to the Republican Party in 2018. Hartford Sports Group was still a proposer because a final contract had not been executed at the time of the donations. This matter is now before the State Elections Enforcement Commission. A state contractor and a prospective state contractor and its principals and immediate family cannot contribute to political candidates or parties.

Chair Rinker expressed his desire to raise with the Board the following policy questions:

1. If, in this case, a prospective proposer makes illegal campaign contributions, before a contract is finalized, should the proposer be disqualified because the entity is not qualified to bid or make a proposal? If for example, a proposer submits a bid or proposal after the deadline for submitting said bid or proposal, a state contracting agency cannot consider such bid or proposal.
2. Initially, CRDA was soliciting bids on behalf of the City of Hartford and recommended to the City of Hartford a proposer, the Hartford Sports Group. We have subsequently learned that this may result in a three party agreement; City of Hartford, CRDA and the Hartford Sports Group. So, what standards apply to a three party agreement? Since we have jurisdiction that includes quasi-publics and CRDA is a quasi-public agency how do we apply our statutes to them?
3. What is the standard if the current license agreement between the City of Hartford (licensor) and CRDA as the licensee, has CRDA entering into a sub licensee agreement with the Hartford Sports Group? This licensee and sub licensee agreement is consider a contract under our statute.
4. Have the possible subsequent contract(s) changed substantially since the issuance of the RFP in September 2017?

Chair Fox upon completion of Subcommittee Chair Rinker's report offered comments.

At the time the Subcommittee held its meeting the Board did not know of the subsequent campaign finance issues. Also the Board did not know if it did or didn't have jurisdiction. It now appears that they are moving to a contract that may fall under our jurisdiction. Our current knowledge is there is not yet a contract, which provides the Board with the opportunity to be proactive.

Chair Fox offered to entertain a motion to have the Board's Executive Director engage the CRDA and the SEEC in a discussion about the contract and whether the bidders are qualified.

Motion made by Robert Rinker and seconded by Charles Casella to have Executive Director David Guay engage in discussions with CRDA and the SEEC about the Dillon Stadium contract and the bidders.

Stuart Mahler and Brenda Sisco urged allowing the SEEC to complete its work.

Jean Morningstar expressed concern over the truthfulness of CRDA.

Alfred Bertoline expressed his understanding of the issues. Contributions of the winner of the bid may be illegal and the licensing agreement is different from what was called for in the RFP and a third issue of truthfulness.

Charles Casella asked a couple of threshold questions. Do we know if CRDA will be a party to the contract? Subcommittee Chair Rinker indicated that there have been representations that they will be.

Chair Fox summarized that he understands the position of waiting for the SEEC to act. Chair Fox explained that he would like the SEEC and the CRDA to understand that before they complete all their thinking on this matter that they understand this Board's position that if in fact it turns out that inappropriate contributions were made, they should not think that we would be anything less than tons of bricks coming down on them. Chair Fox further stated that this is why this Board was created. It goes to the heart of why we were created and there is still time for the parties to make other decisions.

Chair Fox offered that there may be facts that we do not know. It should be known that we don't take a light view of campaign contributions that are inappropriate when contracting with a state contracting agency.

Mr. Mahler questioned proceeding, citing the sec. 4e-36 Subcommittee had taken an action. Executive Director Guay pointed to Section 4e-4(f) which provides the Board with the authority to assist state contracting agencies in complying with the statutes and regulations concerning procurement by providing guidance, models, advice and practical assistance to state contracting agency staff relating to: (1) Buying the best service at the best price, (2) properly selecting contractors, and (3) drafting contracts that achieve state goals of accountability, transparency and results based outcomes and to protect taxpayers' interest.

Brenda Sisco raised her understanding of the jurisdictional issues. If the contract is not with CRDA and with the city of Hartford, we, the Board don't have jurisdiction. If the contract is with CRDA and SEEC determines the contributions to be inappropriate then our Board will have concerns. Chair Fox added that what the Board would do would be under Sec. 4e-7 C.G.S.

Albert Ilg offered that the Board should do everything it can to avoid confusing the man on the street and would urge the Board to approve the suggested motion.

Jean Morningstar motioned to call the question. Chair Fox asked for her indulgence to ensure all have had an opportunity to speak on the matter.

Bruce Buff offered that it is clear that CRDA has lax procurement processes. The Sec. 4e-36 Contested Solicitations and Awards Subcommittee offered CRDA a suggestion for best practices and at the last meeting of the Subcommittee CRDA did not seem all that concerned that the

resulting contract may be significantly different from the RFP. These are basic procurement practices that the Board should encourage.

Stuart Mahler felt that Executive Director David Guay should not engage in discussions with the SEEC about the Dillion Stadium contract and the bidders. He did not think the SCSB should have ex party conversations with another regulatory board like SEEC that to date has not completed hearing a request from a Dillion stadium bidder. He added, the SCSB's job to assist state contracting agencies and quasi-public agencies like CRDA. Indeed, the 4e-36 Subcommittee at the meeting on the Dillon Stadium contract raised the issue with CRDA of date stamping RFP submissions. Therefore he will be voting against the resolution.

Charles Casella offered that if CRDA is subject to all the State's rules of contracting, then was the contract reviewed by the Attorney General? Mr. Casella further offered that if they hadn't we should provide CRDA with standards that require it.

Chair Fox asked for vote on the motion to have Executive Director David Guay engage in discussions with CRDA and the SEEC about the Dillon Stadium contract and the bidders.

Voting in favor: 8

Lawrence Fox, Chair
 Alfred Bertoline
 Bruce Buff
 Charles Casella, Jr.
 Albert Ilg
 Jean Morningstar
 Robert Rinker
 Brenda Sisco

Voting against: 1

Stuart Mahler

No abstentions

Motion approved 8 to 1.

5. Work Group Reports

a. Report from Audit Work Group

Acting Chair Robert Rinker reported for the absent Thomas Ahneman. The Audit Work Group met at 9:00 A.M. this morning and reviewed the transmittal letter that will be sent to those

agencies being audited. The Work Group decided due to the change in administration to issue the audit request after the Board's next meeting in January 2019. One of the selected agencies to be audited is believed to be now part of another agency. The Department of Aging is now the Department of Rehabilitation Services State Unit on Aging. The audit instrument was reviewed and fine-tuned and presented to the Board for approval in January.

6. Review State Office of Higher Education PSA Procedures with Executive Director Keith Norton

The Board reviewed with Executive Director Keith Norton the newly created PSA procedures for the Office of Higher Education. Executive Director Guay introduced Executive Director Norton, by informing the Board that the new procedures created by Executive Director Norton were in response to one of the Board's recent data inquiries. Based upon that inquiry, Executive Director Norton created these new internal procedures. Executive Director Guay invited Executive Director Norton to meet with the Board and introduce his new procedures to illustrate the sentinel effect of the Board's work. The Board expressed gratitude and thanks to Executive Director Norton for his work. The board accepted the procedure for information but has not reviewed the procedure.

7. Report from the Study of PSA Competitive Bidding Practices Joint Committee

Chair Alfred Bertoline reported that Joint Committee is proceeding along. Chair Bertoline reminded the Board that one of the findings from the study the Board did last year was the issue of waivers from competitive bidding in PSA contracts. In this Joint Committee study the Committee looked at the latest Office of Policy and Management (OPM) report to the General Assembly for 2017 and focused on the waiver process. Sixty questionnaires were sent to eight agencies. The Committee is reviewing the returned information and trying to summarize that data. An initial draft of a report has been completed and the Committee is now studying and evaluating that report. A draft report is expected to be provided to the Board before the January 2019 meeting.

Chair Fox took the opportunity to thank the Department of Administrative Services participation in this study, especially Commissioner Melody Curry, Carol Wilson and Devin Marquez.

8. Other Business

Charles Casella raised a question about the budget process and Executive Director Guay outlined the Board's budget request for FY 20 & 21, including outlining the expansion request for filling the vacant Chief Procurement Officer position and requesting an attorney, auditor, and trainer. Albert Ilg added that we are also attempting to get interns from the University Of Connecticut Department Of Public Policy. Mr. Casella stated that it is time for the State to fully fund and staff the Board.

9. Public Comment

No public comment.

10. Adjournment

Motion made by Charles Casella and seconded by Brenda Sisco to adjourn. All voted in favor, the motion passed and the meeting was adjourned at 11:26 A.M.

Respectfully submitted: David Guay