



STATE OF CONNECTICUT
OFFICE OF GOVERNMENTAL ACCOUNTABILITY
STATE CONTRACTING STANDARDS BOARD

Final & Approved
Minutes

Friday, August 9, 2019 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
Donna Karnes
Salvatore Luciano
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 10:00 A.M.

2. Approve the Minutes of the June 14, 2019 Meeting

Motion made by Alfred Bertoline and seconded by Salvatore Luciano to approve the minutes of the June 14, 2019 Board meeting as corrected. All voted in favor, with Stuart Mahler abstaining due to his absence from the June 14, 2019 meeting.

3. Report of the Privatization Contract Committee

Chair Fox reported that the Privatization Contract Committee did not meet last time on June 14, 2019 and thus no report.

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

Chair Rinker reported that during the last month a Michael Lawlor of Manchester submitted a Freedom of Information request to Executive Director Guay concerning CRDA and Dillon Stadium, which were two contests heard by the Contested Solicitations and Awards Subcommittee.

Chair Rinker, at the request of Mr. Lawlor, read the following into the record.

I picked up the CD on Friday afternoon. The information you provided is above and beyond what I expected. Thank you for your assistance.

Taking a look at the State Contracting Standard Board minutes, there appears to be a public comment period at each meeting. Can the following statement be read on my behalf at the next meeting (I do not think I can make the meeting):

On July 22, 2019 I contacted Mr. Guay of the State Contracting Standard Board with a Freedom of Information request pertaining to challenges and associated documentation made to this agency. Mr. Guay was incredibly responsive, and completed my FOIA request beyond what I was anticipating within a couple of days. In my professional work (environmental engineer performing due diligence assessments) I have to frequently submit FOIA requests, and I wish more local and State entities were as responsive as Mr. Guay and the State Contracting Standard Board.

5. Work Group Reports

a. Report from Audit Work Group

Executive Director Guay reported for the absent Thomas Ahneman. The Audit Work Group did not meet in June and July and expects to pick back up in September in order to complete the 2019 audits.

6. Preliminary Report of 2019 Legislation affecting the Board

Chair Fox asked Alfred Bertoline to make a preliminary report. Mr. Bertoline reported that his task group will be meeting immediately following the Board meeting. Mr. Bertoline indicated that it appears there are four key items, all great opportunities for the Board's participation and input.

- Posting of waiver requests on the contracting portal
- Three year contracting plans by agencies, identifying noncompetitive bid contracts
- Agencies audited by the State Contracting Standards Board now have a Statutory comment period

- Two members of the Board must now be certified in procurement

7. Review Department of Education MOU Submission

Chair Fox turned to Bruce Buff to lead the discussion on the Contracting and Procedures Training Manual provided by the Connecticut State Department of Education (CSDE). Mr. Buff reported that yesterday (August 8, 2019) we had an extremely constructive meeting with CSDE Chief Financial Officer, Kathy Demsey, Roger Persson, CSDE Chief of Fiscal/Administrative Services, and Jessa Myrtle, CSDE Director of Legal Affairs. Mr. Buff stated that the manual reviewed is important especially due to the lack of sufficient staff. According to Mr. Buff the manual focuses on processes and procedures and yesterday's discussion focused on those topics. Ms. Demsey was receptive to suggestions, clarifications and modifications, and agreed to get a revised draft to the Board within a few weeks.

Mr. Buff noted that the CSDE personnel performing procurement are not procurement professionals, which presents the Board with an opportunity to encourage other agencies to produce and use a manual like the one currently being produced by CSDE.

Robert Rinker offered that one of the topics previously raised before the State Contracting Standards Board; payments to the Regional Education Service Centers (RESCs) was also discussed and explored in yesterday's meetings with Kathy Demsey and her staff. Mr. Rinker further noted that a great deal of the expenditures by CSDE is set by Statute as to who the funds go to. Another interesting discussion, according to Mr. Rinker had to do with CSDE contracting with the University of Connecticut (UConn). When CSDE contracts with UConn the University adds on 70% for the cost of fringe benefits.

Salvatore Luciano questioned the use of master contracts by CSDE. Mr. Buff responded that we had a discussion on that matter and that pricing from a vendor on a master contract is the pricing that everyone gets. Board members suggested that CSDE select three or four vendors off that contract. The terms and conditions are already negotiated. Then select specific pricing for the service required.

Stuart Mahler raised the issue of the funds recovery from the Pita matter. Mr. Rinker responded that the issue was raised with CSDE. The forensic auditors have completed their audit and CSDE believes it needs to recover almost a million dollars, and the Office of the Attorney General is involved. Mr. Bertoline asked if we had seen the report from the forensic auditors. Executive Director Guay volunteered to ask CSDE for a copy.

8. Discussion of Auditors of Public Accounts Audit (APA) of CRDA concerning Dillon Stadium

Chair Fox welcomed John C. Geragosian, Auditor of Public Accounts, John A. Rasimas, Deputy State Auditor, David Tarallo, Principal Auditor, and Lisa Daly, Administrative Auditor to the meeting to discuss the Auditors' Report Capital Region Development Authority for the Fiscal Years Ended June 30, 2017 and 2018.

Mr. Geragosian began discussion with an overview of the Auditors' Report Capital Region Development Authority for the Fiscal Years Ended June 30, 2017 and 2018, which was released just last Friday.

The State of Connecticut Bond Commission authorized the Capital Region Development Authority to use bond funds for citywide/neighborhood oriented projects outside the core downtown Hartford area. The CRDA Board of Directors and State Bond Commission must approve each specific project prior to CRDA expending the funds.

The State Bond Commission and CRDA Board of Directors approved the use of \$10,000,000 in state bond funds for the construction and renovation of Dillon Stadium in Hartford. The approval was subject to the City of Hartford entering into an agreement to license the stadium to a professional sports team. CRDA spent \$4,039,356 of these state bond funds for the construction of the stadium between July 20, 2018 and February 24, 2019 without an executed agreement in place between the City of Hartford and a professional sports team. The City of Hartford subsequently entered into an agreement with a professional sports team on February 25, 2019.

The authority did not comply with the State Bond Commission and its board of directors' requirement that an executed agreement be in place prior to spending bond funds. It appears that the agreement between the City of Hartford and the professional sports team (Hartford Athletic) was delayed while contractual details were being worked out. Management moved forward with the project without an executed agreement in place. This finding has not been previously reported.

The Capital Region Development Authority should ensure that it meets the terms of its board of directors and the State Bond Commission prior to spending bond funds. (See Recommendation I.)

"Appreciating the uniqueness of this project, CRDA nonetheless agrees with the recommendation.

CRDA believed that (1) the Hartford City Council Resolution (April 9, 2018) authorizing an agreement with the Hartford Sports Group, a professional soccer franchise; (2) the License Agreement between the City and CRDA authorizing the reconstruction of the stadium (June 8, 2018); as well as (3) the USL's acceptance of the HSG franchise (July 11, 2018) as the critical approvals necessary prior to the CRDA's first expenditure of funds (July 26, 2018)

The execution of the agreement between the City of Hartford and HSG franchise did lag (not getting final signature until February 25, 2019) due to matters of form, not substance. But the project had to proceed to honor the very understandings of the actions and agreements noted above.

Members of the CRDA Board, which includes the Secretary of OPM as well as the Hartford Mayor and City Council President were routinely briefed on both the status of the construction and the various legal and funding agreements either within monthly Venue Committee meetings or at full board meetings including April 19, May 11, May 24, June 1, June 11, June 21 September 7, September 20, October 10, October 18, November 2, December 6, 2018 and January 10, and February 14, 2019."

Mr. Geragosian offered that the finding and recommendation concerning Dillon Stadium are straight forward. The State Bond Commission and the CRDA Board of Directors said in order for construction to begin there had to be a contract in place for a sports team, in this case a soccer team. The Auditors found that CRDA spent approximately 4 million dollars before having a contract in place. With the timing, Mr. Geragosian offered, that the CRDA could have gone back to the Bond Commission and the General Assembly and their own Board of Directors to account for the position they found themselves in, but they did not do that.

Regarding the complaint that initiated the audit, Mr. Geragosian informed the Board that the Auditors reported the complaint to the Office of the Attorney General on June 5, 2019. On July 2, 2019 the Office of the Attorney General informed the Auditors that they are not going to pursue the complaint any further than the Auditors review.

Executive Director Guay asked several questions of the Auditors.

- What Affidavits were missing?

- Were any campaign financier affidavits missing?
- Were any affidavits missing for Dillon Stadium's general contractor, Newfield Construction, and architect, JCJ Architecture?

David Tarallo, Principal Auditor responded that they did not review those contracts as they were outside the audit period.

- What documentation would you expect to see for a draw of bond funds?

Mr. Tarallo responded that they would normally look for expenditure records to support the payments.

- What was the documentation provided for the draw of bond funds before CRDA met the conditions for release of the funds?
- Who approved the release of those funds?

Mr. Tarallo was not able to respond to these questions.

Executive Director Guay asked how the Auditors would describe their findings concerning the State Bond funds. Would they be described as Illegal, irregular or unsafe handling of funds?

Mr. Tarallo stated it could be considered unsafe handling of funds.

Executive Director Guay asked if his understanding is correct that the Auditors weren't notified by the CRDA prior to the Audit that they had expended the funds prior to meeting the conditions for release of the funds.

Mr. Tarallo answered no.

Executive Director Guay asked if the Audit was just the result of the whistle blower complaint.

Mr. Geragosian responded that it was a regular periodic audit. Mr. Geragosian offered that all whistleblower complaints are forwarded to the auditor in the field, to review as appropriate.

Executive Director Guay summarized the whistleblower complaint as being folded into the existing audit.

Alfred Bertoline, asked for clarification on the Auditors characterization of unsafe, if CRDA had to meet certain conditions to disburse funds and didn't comply with those conditions, isn't that illegal?

Mr. Geragosian offered that is why in the audit the words used was they did not comply. Mr. Geragosian further offered that the real question is what the sanction for the action is, and he

did not believe there is one. Adding there was the requirement from the Bond Commission and CRDA Board's own directive.

A discussion of what constitutes unsafe handling of funds was held, prompted by a question from Albert Ilg.

Robert Rinker raised the issue of contributions made to Mayor Bronin, and ask if during the audit they looked for the campaign finance affidavits in the two entities that were contracted with.

Mr. Tarallo answered no they did not review those specific contracts.

Jean Morningstar revisited that CRDA spent funds without following the correct procedure, and asked how that is not illegal.

Deputy State Auditor John Rasimas stated that an argument can be made that it is, but it is not the auditor's responsibility to determine that.

Ms. Morningstar followed with questions about the status of the whistleblower complaint forwarded to the office of the Attorney General. Mr. Geragosion responded that the Office of the Attorney General reported that the Auditors of Public Accounts reviewed the complaint sufficiently and is not pursuing the complaint further.

Ms. Morningstar summarized that if she were to pay money for something that she did not have permission to pay money out of an account I don't own, how can that not be illegal.

Salvatore Luciano, asked the Auditors if they had looked at how the approximately 4 million was actually spent, and whether they were legitimate bills? Mr. Tarallo responded that invoices were reviewed to support the numbers. Mr. Geragosian added that the unsafe element is what if they didn't enter into a contract with a team as required.

Stuart Mahler noted that the work has been done, the complaint made has been disposed of by the Office of the Attorney General, and if the issue is back before the State Contracting Standards Board, and what are we supposed to do.

Executive Director Guay responded that the Board's statutes provides two separate sections that give the Board the ability to take this on.

Mr. Bertoline added that he has a problem with spending money that is not contractually appropriate. Then look at the Audit recommendation, which all can agree upon. The problem Mr. Bertoline expressed by the CRDA response is that yes we agree with the findings but we have all these unusual circumstances with this.

Chair Fox expressed that there were steps that could have been taken, such as going back to the Bond Commission.

Jean Morningstar expressed frustration with lack of penalties for behavior described in the Auditors Report of the CRDA and asked the Auditors if they have any suggestions for legislation to address this issue.

Mr. Geragosian responded that every audit is measured up against the law, the agency policies, regulations or good business practices. Thus every single report has non-compliance in it, and the question is what the sanction is. Mr. Geragosian offered that his office has no enforcement powers, they report.

John Rasimas added that being on the same team as the Board, the Auditors have the same concerns about contacting.

Brenda Sisco summarized the discussion so far, but is unsure what should be done at this point.

Mr. Rinker suggested a deeper look is required to answer the questions that are outstanding. Further suggesting the Chair may wish to form a committee which would report back to the Board which has statutory authority in this particular matter.

Chair Fox summarized that there at least a few issues that would be worthwhile for this Board through a small group to take a deeper look at the affidavits question, and a deeper understanding from CRDA about how they would do this in the future.

Charles Casella asked who the contracting agency is. Mr. Geragosian responded that is the question due to the history of the Dillon Stadium project. Mr. Rinker provided a review of the Dillon Stadium project. Specifically noting that the State Contracting Standards Board has jurisdiction with the CRDA and the architect and construction contractor contracts.

Jean Morningstar asked who signed the checks. Mr. Tarallo responded CRDA.

Ms. Sisco asked the Auditors if this truly was a unique and unusual circumstance. Mr. Tarallo remarked that it was fair to say.

Mr. Buff focused on the question of CRDA having or not having contracts in place before the expending of the funds to the architect and construction company, with the Auditors responding that they did not specifically look at that.

Donna Karnes asked the Auditors if they looked at the License agreements and whether they were standard and all in order, with the Auditors responding they appeared to be.

Chair Fox offered that it is worth the Board forming a small group to look into the matter further.

At this point Anthony Lazzaro, Deputy Director of the CRDA asked to speak and provide answers to some of the questions being asked.

Mr. Lazzaro was asked to come to the table.

Mr. Lazzaro provided the following:

- The affidavits in question with the architect and the construction company are in place.
- The contracts with JCJ architecture and Newfield Construction were all properly in place before any dollar was spent.
- Any moneys spent prior to formal signing of the soccer team, were invested in a city stadium and the risk in question was in a worst case scenario the city would have a renovated stadium.
- Ben Barnes who sits on the CRDA Board, and is the Chair of the Bond Commission gave us permission to move forward
- Catherine Smith, then Commissioner of Economic Development, and sits on the CRDA Board and the Bond Commission gave her permission to move forward.
- The CRDA clearly didn't follow the letter of the Bond Commission requirement and will not do this action again.

In Response to Mr. Lazzaro, Ms. Morningstar expressed her disagreement.

Mr. Rinker and Mr. Lazzaro discussed whether the campaign contributions made by Mr. Mandell and family affected the process.

Salvatore Luciano offered the fundamental change from a three party agreement to a two party agreement removed the Board's jurisdiction.

Chair Fox, thanked Attorney Lazzaro for his comments and explanations.

Chair Fox thanked the Auditors of Public Accounts for their participation.

Chair Fox introduced and entertained discussion on whether the Board should look further into the matter through a small group.

Charles Casella motioned, and Salvatore Luciano seconded for further investigation, by a small group, to be named by the Chair to report back to the Board. The resolution passed with Mr. Mahler abstaining Mr. Mahler asked that the following be entered into the record. Mr. Mahler abstained because of the impact it may have on Executive Director's responsibilities. Mr. Mahler felt there are more pressing items that need to be addressed such as getting the FAC to increase the staffing for the agency

7. Other business

Executive Director Guay presented to the Board a letter from William Garrity, President, University Health Professionals concerning an apparent privatization of pharmacy services. Executive Director Guay suggested the matter be referred to the Privatization Contract Committee.

Motion made by Robert Rinker and seconded by Alfred Bertoline to forward to the Privatization Contract Committee. All voted in favor.

8. Public comment.

Doug Smith addressed the Board concerning the lack of funding for the Board and questioned whether the Board would be eligible for whistle blower awards as a way of funding the Board.

9. Adjournment

Motion made by Brenda Sisco and seconded by Alfred Bertoline to adjourn. All voted in favor, the motion passed and the meeting was adjourned at 11:50 A.M.

Respectfully submitted: David Guay