



STATE OF CONNECTICUT
OFFICE OF GOVERNMENTAL ACCOUNTABILITY
STATE CONTRACTING STANDARDS BOARD

Final & Approved
Minutes

Friday, March 11, 2022 - 10:00 A.M. Meeting of the State Contracting Standards Board
Via Microsoft Teams

Members Present:

Lawrence Fox, Chair

Stuart Mahler

Daniel Rovero

Donna Karnes

Lauren Gauthier

Bruce Buff

Robert Rinker

Brenda Sisco

Jean Morningstar

Alfred Bertoline

Albert Ilg

Salvatore Luciano

Thomas Ahneman

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

Ryan Chester, Staff – 2021-2022 UConn Graduate Intern

1. Call to order

Chair fox called the meeting to order at 10:05 AM.

2. Approve the minutes of the February 4, 2022 meeting

Al Bertoline motioned, Lauren Gauthier seconded, Thomas Ahneman abstained, majority voted in favor.

3. FY23 Budget Update

Chair Fox reported that there is broad support for appropriating 5 additional positions that we have requested in the appropriations committee and the broader legislature. There was some exploration of whether they should move the board to the legislative branch. Chair Fox's concern with moving the Board to the legislative branch is that we would lose the authority to make decisions on executive branch contracting agencies. That would dampen the mission of this board. Senator Cathy Osten has come to the same conclusion. The appropriations committee is also considering language to limit the power of the executive branch to line item out this board.

There is a lot of concern that the executive branch does not support this board. Chair Fox suggested that the vacancies need to be filled by September 1st, 2022. Chair Fox also wants to suggest considering language to allow executive director David Guay to be reemployed in retirement to help with the transition.

Chair Fox reported that we have noticed recurring procurement issues. With regards to OPM procurement guidance, OPM has deleted a section instructing contracting agencies to make bidders aware of their 4e-36 rights to contest the solicitation which would bring the case to our Board. OPM has taken out all references to this Board in the guidance they give to contracting agencies. GAE may want to extend our jurisdiction to all quasi-public agencies. Chair Fox stated that he thinks they should move forward with this. Chair Fox has suggested that there be statutory clarification of when using qualified bidder lists that state contracting agencies still seek multiple responses. Chair Fox believes there is confusion about those lists. The state must reinforce the importance of competitive bidding.

When a contracting agency makes a declaration of emergency for procurement purposes, we need statutory language that the Board be notified. Our board if staffed can create regulations about defining when emergencies can be declared for procurement purposes. These are issues that would help reinforce open, competitive, transparent procurement which is foundational to this Board's mission.

Thomas Ahneman asked a question about moving the Board to the legislative branch.

Chair Fox responded providing further clarification about the implications of moving to the board to the legislative branch.

Brenda Sisco asked whether these suggestions were decided by a work group?

Chair Fox responded no.

Thomas Ahneman asked about what a "fire wall" would be for this Board?

David Guay stated the language to protect the Board.

Chair Fox wants to pursue the same protections that FOIA and Ethics have.

Daniel Rovero commented that he spoke with several legislators and there is a lot of support for funding this board.

Donna Karnes stated that she fully supports Chair Fox's suggestions.

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

Stuart Mahler stated there is no business to report.

5. Privatization Contract Committee Report

David Guay reported that there is no business to report.

6. Audit Work Group

Thomas Ahneman reported that out of 33 agencies, we have 15 returned questionnaires and 18 agencies have yet to respond. David Guay and Ryan Chester will be reaching out individually to the 18 agencies who have yet to respond. We have streamlined our compliance report to make that process more effective and easier for board members. We are compiling a list of the agencies that do not handle their own procurement.

7. Update from Connecticut Port Authority Review

Lauren Gauthier reported that we met recently with the CPA to review a procurement manual for them. We have also continued to follow up on different contracts to see how they fit into complaints we have received.

Bruce Buff reported that we are constructing a manual to ensure fair, open, and competitive procurement procedures. The CPA will present this manual to their Board. This manual provides a good foundation for their procurement. It also allows us to audit and certify their processes with a more detailed procurement manual.

Chair Fox reported that David Kooris and John Henshaw have been working very collaboratively with us in developing these procurement procedures. One of the issues we want to raise with OPM is with RFP's where the guidance states the criteria need to be sent with the RFP; the weights need to be determined before the RFP is sent out. However, currently it is optional whether to disclose the weights to bidders. Chair Fox responded that we want to change that guidance to require the disclosure of weights in RFPs. The CPA has agreed to disclose weights in any future RFPs.

Stuart Mahler stated that the people selected to evaluate RFP responses should receive training and focus on RFP criteria and weights rather than other factors.

Chair Fox stated that when this Board completed the initial review of the CPA's procurement, we did not look at any of the construction contracts for the state pier. We asked the CPA if they are doing the procurement for the pier. Under a MOA/MOU, DAS and OPM handle all the actual procurement. We as a Board can look at that work. It has been widely reported in the media that the FBI's investigation includes procurement at the State Pier. Bestech was hired by OPM to do demolition work at the State Pier, then Stamford Wrecking completed the demolition work. We want to understand what the contracting process was to bring Bestech on and how did it switch

to Stamford Wrecking. We want to see what the process was to hire Kiewitt as the general contractor. Kosta Diamantis was in charge of \$157 million worth of procurement, and we ought to understand what's going on with regards to that.

We also want to look into qualified bidder lists at DAS with how they are selected and being used by different levels of government.

Thomas Ahneman asked who is responsible for seeing how state money is used for school construction.

Chair Fox stated that is a good question for us to look into.

Brenda Sisco reviewed the reimbursement, checks and balances, and auditing process for municipal school construction.

Chair Fox stated that we can look into the process of how these lists are created without overstepping into local government.

Brenda Sisco stated that we should not assume these lists contain bad actors.

Chair Fox responded that we do not assume these lists contain bad actors, however, the FBI will not change the process the Connecticut State Government is using to generate these lists. DAS seems to be clarifying and strengthening the process, but we should still look at that process.

Lauren Gauthier motioned to request a formal opinion from the Attorney General regarding the Connecticut Port Authority's ability to enter into public-private partnerships via their enabling statutes. Salvatore Luciano seconded the motion.

Thomas Ahneman asked for clarification on this motion.

Lauren Gauthier and Chair Fox provided clarification on the purpose of this motion being to clarify the confusion surrounding whether the harbor development agreement is in fact a public-private partnership.

Stuart Mahler asked for the specific statute regarding public-private partnerships.

Chair Fox gave clarification on the P3 statute.

All voted in favor, Thomas Ahneman abstained. The motion passed.

Lauren Gauthier motioned to request a formal opinion from the Attorney General regarding the legitimacy of the Connecticut Port Authority's Harbor Development Agreement public-private partnership.

Salvatore Luciano seconded. Majority voted in favor, Brenda Sisco opposed, Thomas Ahneman abstained. Motion passed.

Albert Ilg asked if we ever received clarification about the redacted information?

Lauren Gauthier responded that we were able to see the redacted pages.

Albert Ilg clarified that municipalities have building commissions that come up with a price for school construction. The finance director works with the state to figure out how much the state will cover. Albert Ilg continued to discuss specific issues he is familiar with regarding the issue of state grants for municipal school construction.

Albert Ilg asked if DAS and OPM reviewed or agreed with the purchasing process that the CPA has done at the State Pier?

Lauren Gauthier responded that OPM edited the CPA's operating procedures.

Chair Fox stated that OPM has a seat on the CPA's board so OPM will certainly be involved to that extent.

Albert Ilg asked how did the original cost of the State Pier go from around \$57 million to \$90 million to \$157 million to now over \$220 million of state money? Who does the project estimates?

Lauren Gauthier clarified.

8. Update on possible disqualification of contractor action

David Guay suggested that the Board pause this issue because of the timing of his retirement. Chair Fox agreed to pause this issue.

9. Other business

No other business to report

10. Public Comment

No public comment

11. Adjournment

Motioned by Daniel Rovero, Albert Ilg seconded. All voted in favor, none opposed, no abstentions. Meeting adjourned at 11:31 AM

Respectfully submitted: Ryan Chester