



STATE OF CONNECTICUT
OFFICE OF GOVERNMENTAL ACCOUNTABILITY
STATE CONTRACTING STANDARDS BOARD

Final & Approved Minutes
Friday, December 8, 2017 Meeting of the State Contracting Standards Board
5th Floor Conference Room
18-20 Trinity Street, Hartford, Connecticut

Members Present:

Claudia Baio, Chair
Thomas Ahneman
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 Baio at 10:10 A.M.

2. Approve the Minutes of the October 13, 2017 Meeting

Motion made by Jean Morningstar and seconded by Robert Rinker to approve the minutes of the October 13, 2017 Board meeting. All voted in favor, with Stuart Mahler abstaining due to his absence at the October 13, 2017 meeting.

3. Set meeting Dates for 2018

Motion made by Robert Rinker and seconded by Alfred Bertoline to approve the proposed meeting dates for 2018. All voted in favor

4. Report from Privatization Contract Committee

Chair Baio reported the Committee will be holding a meeting immediately after this full Board meeting, with no new information to report. At the last meeting of the Privatization Contract Committee planned to present to the full Board a recommendation to endorse the first phase of the Department of Transportation proposal bringing more of the bridge safety and inspection work back in-house. The Committee has some open questions before being able to endorse the entire plan.

5. Report of the Contested Solicitations and Awards Subcommittee

Subcommittee Chair Robert Rinker reported since the full Board last met the Subcommittee received and met on a contest of a solicitation regarding security systems for the State of Connecticut by the Department of Administrative Services (DAS). The basis of the contesting was the setting of specifications would limit the number who could bid on the contract. The bidder claimed that they were not certified on the products the State was seeking, thus unable to bid on the contract.

Chair Rinker reported that the Subcommittee met with the contester, The Mercury Group. The Subcommittee also met with DAS officials to discuss the specifications. DAS security is seeking uniformity of equipment to allow the movement of staff without training on new or different equipment. Chair Rinker noted that under the law DAS can set the specifications.

The Subcommittee denied the claim of the Mercury Group and made two suggestions. Suggesting that DAS more fully respond to bidder/proposer inquiries and noted to the Mercury Group that they are not prohibited from working on equipment that they are certified to work on.

Chair Baio entertained a motion made by Robert Rinker and seconded by Jean Morningstar to adjust the agenda to allow the Audits Work Group report first. All voted in favor

6. Work Group Reports

a. Report from Audits Work Group

Chair Thomas Ahneman reported the Audits Work Group is compiling information from its audit questionnaire. We have results that we are also compiling and Executive Director Guay will produce a draft report. The work group intends to coordinate with the Auditors of Public Accounts on what agencies they have audited in 2017. The work group also plans on interviewing audited agencies.

The audit work group also had representatives from the State Department of Education (SDE), Kathy Demsey, SDE Chief Financial Officer and Peter Haberlandt, SDE Chief of Legal Services in for an interview concerning the State Technical High Schools and the Pita Group. SDE will send Committee the changes they have already implemented based upon the investigation as of today. SDE expects to conclude their internal investigation by early spring 2018 at which time the work group hopes to have them in for a follow-up discussion.

a. Report from Data Analysis Work Group

Chair Alfred Bertoline and Bruce Buff of the Data Analysis Work Group presented the work group's report, a Study of Competitive Bidding Practices Findings and Recommendations.

Thomas Ahneman asked if a dollar value threshold is contemplated for all contracts to be bid. Mr. Bertoline responded that he does not, but expects to Board to develop this standard.

Charles Casella asked if a list of the top contracts with terms longer than forty years. Mr. Buff responded that it will be provided.

Mr. Casella also asked if the Work Group had identified those contracts that proprietary or patent right restrictions. Mr. Buff responded that the data on contracts with proprietary or patent right restrictions was not collected.

Mr. Buff explained the methodology of the research at the urging of Chair Baio. Mr. Buff explained they picked fifty no-bid contracts. Mr. Bertoline added that they chose twenty high dollar contracts and the rest were chosen at random.

Brenda Sisco inquired whether the group had found standards for the application of a no bid waiver. Mr. Bertoline responded with the proprietary or patent right restrictions and other unique reasons frequently cited.

Ms. Sisco asked if there really was a contract with a 108 year term. Mr. Buff responded that it is for financial services. Mr. Casella commented that he thought contracts were limited to four years. Mr. Buff responded that he did not see any limitation other than common sense indicates you wouldn't have a contract for more than three to five years.

Stuart Mahler questioned the appropriateness of the recommendation for an in-house agency contract advocate to ensure competition and expressed that individual's role would be very difficult. Mr. Buff responded that the recommendation is modeled on the federal government in the 1984 Competition Contracting Act.

Mr. Rinker expressed his appreciation for the exhaustive work of the Data Analysis Work Group. Mr. Rinker asked if the Work Group found what the average life of a contract is and whether there was a difference between those bid and those not. Mr. Buff responded that the group did not distinguish between the two.

Mr. Rinker noted that only six contractors responded to the survey request. Mr. Bertoline responded that the Board has a mechanism to get continual feedback through the Contractor Advisory Panel. Mr. Rinker offered that maybe a recommendation that agencies start with a Request for Information (RFI), allowing for a more prepared Request for Proposal (RFP). Mr. Buff added another way would be to require bidder conferences.

Mr. Rinker raised a question about the Department of Administrative Services approved list of contractors. Erin Choquette of the Department of Administrative Services was invited to respond. Her response is there is no such list, but DAS does have prequalified contractors in the construction area.

Albert Ilg raised questions about the 108 year term contract, asking who and what for. Mr. Buff responded Bank of America for financial services. Mr. Ilg questioned why you would have a 108 year contract. Mr. Buff responded that is a good question.

Mr. Rinker questioned where we go from here. Mr. Bertoline suggested that if the Board approves the report than to think about how we organize and approach the next step.

Mr. Ilg offered that the work group felt strongly about the vendor advisory panel. Executive Director Guay at the urging of Chair Baio outlined the appointing authority for the panel

Sec. 4e-9. Vendor and Citizen Advisory Panel. Established. Duties. (a) There shall be a Vendor and Citizen Advisory Panel comprised of fifteen members appointed as follows: Three members by the Governor, two members by each of the following: The speaker of the House of Representatives, the majority and minority leaders of the House of Representatives, the president pro tempore of the Senate and the majority and minority leaders of the Senate. No more than six vendors with state procurement experience shall be on the panel and the remaining members shall have demonstrated sufficient knowledge by education, training or experience in one or more of the following areas: (1) Government procurement; (2) contract negotiation, drafting and management; (3) contract risk assessment; (4) preparing requests for proposals, invitations to bid and other procurement solicitations; (5) evaluating proposals, bids and quotations; (6) real property transactions; (7) business insurance and bonding; (8) the state code of ethics; (9) federal and state statutes, policies and regulations; (10) outsourcing and privatization proposal analysis; (11) governmental taxation and finance; (12) small and minority business enterprise development; (13) collective bargaining; and (14) human services, provided such education, training or experience shall have been acquired over not less than a continuous five-year period and within the ten-year period preceding such appointment. The chairperson of the panel shall be the Chief Procurement Officer, who shall be an ex-officio member. (b) The panel shall make recommendations to the board regarding best practices in state procurement processes and project management as well as other issues pertaining to stakeholders in the system.

(Sept. Sp. Sess. P.A. 07-1, S. 9.)

History: Sept. Sp. Sess. P.A. 07-1 effective January 1, 2009.

Jean Morningstar proposed that the Data Analysis Work Group should meet with Legislative Leaders and present the preliminary report, noting that the report is a very compelling first step.

Mr. Rinker asked about the contracting for proprietary software, and asked if the Work Group had run into any of that. Mr. Rinker offered that this refers to the inability for knowledge transfer to state employees.

Chair Baio summarized that the study is a high level survey to identify issues and not to drill down deeply.

Ms. Sisco expressed concerns that the Board is clear on what the study is about and what it is not about.

Mr. Bertoline explained that this study is an overview of what are the issues and it will be up to the Board to decide what to further study or more deeply study.

Mr. Ahneman asked how the Work Group arrived at the savings figure \$170-260 million. Mr. Bertoline responded that besides the available literature, the figure is arrived at from his personal experience as a C.P.A. and auditor and financial consultant for over 35 years knowing what competition can bring to pricing structure. Mr. Bertoline noted that he believed the numbers are conservative. Mr. Buff added that competition does wonderful things for pricing, with the question being how much you are going to save, with the answer being depends on what you are buying. Mr. Buff further explained that they took a cross section of contracts and based upon both Mr. Bertoline's thirty-five years as a C.P.A and Mr. Buff's over forty years in procurement our opinion is \$170-260 million.

Mr. Bertoline summarized that the potential for savings are huge.

Mr. Rinker reminded the Board that the study is also excluding the DAS master contracts and construction contracts.

Chair Baio suggested that this study be placed as a major component on the agenda of our next meeting, allowing members an opportunity to digest and synthesize the report and return with more questions and comments.

Ms. Sisco suggested the work group meet with representatives of the Office of Policy and Management (OPM) to go over the report.

Mr. Bertoline suggested before meeting with OPM the Board should set some parameters on what it is going to do next.

Chair Baio summarized that meeting with OPM and DAS will be something the Work Group will arrange and that Board members should review the report and return in January to further discuss.

7. Other business

No other business raised.

8. Public Comment

Erin Choquette of the Department of Administrative Services addressed the Board and offered for consideration as the Board reviews its draft report. Because the data looked in the report was solely PSA contracts and POS contracts the conclusions drawn can only be attributed to them and suggested modify the recommendation of working with DAS on a broad scope of new regulations. Ms. Choquette explained that DAS does not have the resources to take on special projects on matters outside of their jurisdiction.

9. Adjournment

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

Respectfully submitted: David Guay