



STATE OF CONNECTICUT
OFFICE OF GOVERNMENTAL ACCOUNTABILITY
STATE CONTRACTING STANDARDS BOARD

Draft
Minutes

Friday, April 8, 2016 Meeting of the State Contracting Standards Board
999 Asylum Avenue, Hartford, Connecticut
5th Floor Conference Room

Members Present:

Claudia Baio, Chair
Alfred W. Bertoline
Bruce Buff
Charles W. Casella, Jr.
Salvatore Luciano
Stuart Mahler
Robert Rinker
Brenda Sisco
Roy Steiner

David L. Guay, Executive Director - ex-officio board member
Julia Marquis, Chief Procurement Officer
Nancy Lotas, Office Assistant

1. Call to order

Meeting called to order by Chair Claudia Baio at 10:07 A.M. and she welcomed new Board member Bruce Buff.

2. Approve the Minutes of the March 11, 2016 Meeting

Chair Baio entertained a motion to approve the draft minutes from the March 11, 2016 Board meeting.

Motion made by Stuart Mahler and seconded by Salvatore Luciano to amend the minutes with the following, all voted in favor.

*3. Review of cost effectiveness evaluations.
Paragraph 6 should be modified to include the following clarification which is underlined.*

Discussion held on whether the Board is authorized to do one or more than one functional review per year. Mr. Mahler brought to the attention of the Board the following in 4e-16 (l) (1): The Board may review additional existing privatization contracts and shall review not less than one contracting area each year that is currently privatized. Charles Casella offered the reason the Board is looking into the matter is so the Board can promulgate standards and regulations.

Motion made by Alfred Bertoline and seconded by Salvatore Luciano to approve the minutes of the March 11, 2016 Board meeting as amended. All voted in favor.

Stuart Mahler raised the issue of how detailed the minutes should be, based upon a communication from Executive Director Guay offering minutes that provided less detail in order for Executive Director Guay to focus on more important items. Mr. Mahler spoke in favor of more detailed minutes.

Motion made by Stuart Mahler that in order to understand what was discussed at the Board and committee meetings, that meeting minutes will include pertinent information discussed at the meetings, whether a subcommittee meeting or a Board meeting. Motion seconded by Charles Casella.

Mr. Mahler spoke strongly in favor of detailed minutes. Chair Baio noted her support of Executive Director Guay's offering of less detailed minutes. Executive Director Guay defended the new model of minutes. Brenda Sisco supported the abbreviated minutes considering the limited staff resources. Robert Rinker supported the motion as consistent with the Board's mission.

Voting yes:

Charles W. Casella, Jr.
Stuart Mahler
Robert Rinker
Roy Steiner

Voting no:

Claudia Baio
Alfred W. Bertoline
Bruce Buff
Brenda Sisco

Abstaining:

Salvatore Luciano

Four voting yes, four voting no, and one abstention- the motion fails.

Charles Casella questioned whether the Chair gets to vote or only to break a tie. Chair Baio responded that she gets to vote.

Stuart Mahler offered further comment that items such as the question of how minutes will be produced should come before the Board and not a unilateral decision of the Chair. He further noted that the Board has to evaluate Julia and David and their duties have just changed. Chair Baio responded that it was not a unilateral decision. Rather it was a decision of the Executive Director and he ran it by her. Executive Director Guay offered to Mr. Mahler that despite the failed motion, he would endeavor to provide more detailed minutes.

3. Continued review of cost effectiveness evaluation data

Based upon discussions at the last Board meeting, Ms. Marquis provided a response to the Board's request to perform a deeper analysis of the cost effectiveness evaluation data collected.

For the benefit of the new members of the Board, Ms. Marquis explained the statutory requirement for cost effectiveness evaluations. Discussion was held on the methodology of the request for information from agencies.

Motion made by Alfred Bertoline and seconded by Salvatore Luciano to direct further research and data analysis from Ms. Marquis on the cost effectiveness evaluations by state agencies.

Voting yes:

Claudia Baio
 Alfred W. Bertoline
 Bruce Buff
 Charles W. Casella, Jr.
 Salvatore Luciano
 Stuart Mahler
 Brenda Sisco
 Roy Steiner

Voting no:

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Abstaining:

Robert Rinker

After the vote Ms. Marquis noted she preferred to be more proactive and more useful to the Board, but she is receiving a mixed message from some who prefer she only undertake tasks directed by the Board at a meeting and some prefer making requests directly to her.

Brenda Sisco offered that with only two individuals as staff, direction should come from the Board at a meeting, further offering if staff has suggestions she would love to hear them.

David Guay suggested that Ms. Sisco's suggestion of staff offering a template of what they think should be the direction of the Board and letting the Board pick and choose from the offered direction would be a good approach.

Chair Baio cautioned about staff receiving potentially inconsistent direction from individual Board members, taking staff in several different directions.

Charles Casella suggested that staff certainly should be responding to direction from the Board and beyond that, statutory obligations should be fulfilled regardless of direction from the Board. Mr. Casella asked Ms. Marquis what other things she thinks she should be doing. Ms. Marquis responded she would provide a list. Mr. Casella suggested a list from Mr. Guay also. Mr. Guay responded that was what he had suggested in response to Ms. Sisco, that is, provide a list of what staff thinks the Board can do with the limited resources it has. Mr. Guay further explained that because of the proposed elimination of the Board's staff by the Appropriations Committee budget he will be preparing a dual track for the Board. One track for the Board continuing its existence with staff and a second preparing for the possible closing of operations and recommending how the Board may continue without staff.

Mr. Buff suggested a path for Ms. Marquis to follow in order to gather more detailed information from the agencies that responded that they had not performed cost effectiveness evaluations. Mr. Rinker suggested that the Board needed to start with asking did you have any contracts for services and looking to find out who is following the law and who isn't.

Chair Baio wrapped up discussion by reiterating what the Board is looking for Ms. Marquis to ask of each agency. Ms. Marquis suggested she will provide a draft of the next questionnaire and seek Board member input.

Mr. Mahler commented that he hoped the minutes would report more than "discussion held."

4. Continued Review of DMV Contract

Ms. Marquis provided a copy of a memorandum from Sharon Geanuracos of the Legal Services Division of the Department of Motor Vehicles (DMV), received in response to the questions the Board posed concerning further outsourcing to AAA and lessons learned from the 3M contract.

Ms. Geanuracos responded that it would be premature to provide lessons learned. DMV projects that it will not be in a position to finalize a timeline, conduct an analysis, develop a close-out summary and formulate lessons learned until sometime in the second half of 2017. DMV is not currently sending additional work to AAA. DMV has had discussions with AAA about expanding the work that AAA does to include registration renewals in accordance with statutory language of 2010.

Mr. Casella questioned the DMV response about a 12-month warranty period on the 3M software at the conclusion of implementation and final system acceptance. Ms. Marquis responded with an explanation of the warranty and maintenance agreements after the warranty period. Mr. Casella offered that warranties should be something the Board looks into when setting standards for contracts.

Mr. Bertoline expressed his disappointment with the DMV response, suggesting that it's hard to believe that nothing has been learned so far and won't be until 2017. Mr. Bertoline expressed his belief that the Board was also going to ask the same question of the Department of Administrative Services Bureau of Enterprise Systems and Technology (DAS/BEST). Ms. Marquis responded that she did not have that as a task from the last meeting but would make the inquiry.

Robert Rinker added that the DMV system is not the first system the State of Connecticut has bought that hasn't worked. There are issues that need to be addressed when procuring IT software. What happens after the warranty period? Does the system have proprietary language? Why doesn't the state run parallel systems when implementing a new system until it's sure the new system is functional? How do we engage a system in place and how do we address proprietary software, when only the vendor can fix the software?

Ms. Marquis responded to Mr. Bertoline's disappointment with the response by stating she will communicate with DMV for a better response by using the Board's statutory authority.

Stuart Mahler suggested that the Board terminate or recommend the termination of the DMV 3M contract. Mr. Casella added that maybe a standard is needed on how to deal with situations such as the 3M DMV contract.

For the Board's information Ms. Marquis provided the Board with a copy of House Bill 5625 An Act concerning the sale, via internet auction, of license plates issued by the Department of Motor Vehicles. Ms. Sisco noted the summary is all that is available and that the substitute language is not available, thus hard to have a substantive conversation without the substitute language. Mr. Rinker noted that unless the bill includes notwithstanding language the action contemplated in the bill would still fall under the Board's purview.

5. Review of Labor Relations Contracts

Based upon discussions at the last meeting, Ms. Marquis recapped the Board's requests of her. Request from the Office of Labor Relations (OLR) a copy of all their contracts, and all contracts state wide concerning labor negotiations, including from Judicial and higher education.

All contracts have been provided to the Board and forwarded to members. Ms. Marquis, in response to a question from Mr. Casella, provided the payment method used and the amounts

spent to date. Ms. Marquis provided that the Judicial branch is not using a master contract, but rather paying for legal services with a purchase order which states the terms and conditions.

Ms. Marquis will forward all the correspondence she has received so far.

Mr. Rinker had Ms. Marquis explain the difference in paying for legal services through a personal services agreement and simply paying through a purchase order. Mr. Rinker asked Ms. Marquis to gather the procurement code from the Judicial Branch for a review.

Mr. Casella asked if he was to understand correctly that the Judicial Branch is not included in the Board's statutes. Ms. Marquis responded, yes, but they are supposed to provide the Board with their procurement code and procedures. Ms. Marquis stated she would provide the Board with a copy of the Judicial Branch procurement code.

6. Appointment to fill vacancy on the Privatization Contract Committee

Chair Baio announced she is appointing Larry Fox to the vacancy on the Privatization Contract Committee.

7. Other Business

Chair Baio reminded members to file their Ethics Statement of Financial Interest.

Discussion held on the proposed FY17 Appropriations Committee budget, which proposes the elimination of staff and the defunding of the Board. Brenda Sisco explained her disappointment and urged the Board to develop a plan and strategy to address the proposed budget, suggesting a need to communicate the Board's desire to have the funding restored.

Mr. Casella stated that it seems to be a public policy issue and should be presented to the Governor and to the General Assembly as that. Further stating that we hold great potential for savings to the State were we able to put up the standards we need to and able to look into the privatization contracts that we know are out there and spending a lot more money than it would cost to do them in house. Mr. Casella states it makes little sense from a public policy perspective to shut us down.

Mr. Rinker urged the Board to make a statement of opposition to the defunding of the Board.

Motion made by Robert Rinker and seconded by Alfred Bertoline to oppose the defunding of the State Contracting Standards Board. All voted in favor.

Mr. Casella recalled that the Privatization Contract Committee met and decided it wasn't in their purview to decide which issues to pursue, but it is the purview of the Board.

Motion made by Charles Casella and seconded by Salvatore Luciano that the Board support the review of the bridge safety inspection contracts that are in the Department of Transportation. All voted in favor.

Mr. Casella raised the issue of core governmental functions and to his knowledge there is no definition of core governmental function. Chair Baio responded that the Board had discussed this issue in the past. Mr. Mahler noted that it is defined under C.G.S 4e-16 (d).

For the purposes of this section, "core governmental function" means a function for which the primary purpose is (A) the inspection for adherence to health and safety standards because public health or safety may be jeopardized if such inspection is not done or is not done in a timely or proper manner, (B) the establishment of statutory, regulatory or contractual standards to which a regulated person, entity or state contractor shall be held, (C) the enforcement of statutory, regulatory or contractual requirements governing public health or safety, or (D) criminal or civil law enforcement.

Mr. Casella remarked that it seems kind of broad and that it seems to him that there probably are contracts out there that privatize core governmental functions. The question offered by Mr. Casella is how do we address that issue, and how do we address the issue for other agencies that want to do that. Mr. Casella further remarked that the only privatization effort brought before the Board was from the Department of Emergency Services and Public Protection (DESPP) concerning outsourcing of fingerprinting review, which was turned down because it was a core governmental function. Recently Mr. Guay provided the Board with a news clipping indicating that DESPP was considering privatizing the processing of rape kits. Mr. Casella asked how do we react to the privatization of the processing of rape kits and how do we react to core governmental functions being privatized. Mr. Casella urged that we need to look into that and maybe we need a subcommittee or regulations, but is unsure of what we need.

Chair Baio responded that it appears there are two parts. First, how to address the possible privatization of the analysis of rape kits. Chair Baio suggested we reach out to DESPP. Mr. Rinker offered that the processing of rape kits which lead to prosecutions is a core governmental function. Mr. Rinker further remarked that the Board is back to the listing and inventory of contracts in order to sort out for what those contracts are used. Ms. Marquis responded that she does not believe there is a button or mechanism in the State's contracting portal or the CORECT system to sort out the privatization contracts.

Mr. Rinker focused the discussion on the collection of data on contracts and the scope of work they accomplish. Without an inventory of all contracts we are unable to determine what services those contracts are performing.

Chair Baio summarized that staff will be ascertaining the status of the processing of rape kits by DESPP and collecting state-wide contract data. Ms. Marquis responded that she has made an initial inquiry of DESPP and will continue with her follow-up.

Mr. Mahler asked for reports from the Board's two subcommittees. Chair Baio indicated that Mr. Casella had essentially provided the Privatization Contract Committee report and turned to Mr. Rinker for a report of the Contested Solicitations and Awards subcommittee.

Mr. Rinker reported that there is a contest currently before the subcommittee, contesting an award by the Department of Social Services (DSS), with the subcommittee planning to meet prior to the May 13, 2016 meeting of the Board. Ms. Marquis added that the subcommittee is expecting a response from DSS by April 21, 2016.

8. [Executive Session per C.G.S. §§ 1-231 and 1-200\(6\) - Discussion concerning pending litigation – Sydney T. Schulman V. Connecticut State Contracting Standards Board](#)

Motion made Robert Rinker and seconded by Stuart Mahler to go into executive session along with staff per C.G.S. §§ 1-231 and 1-200(6) - Discussion concerning pending litigation – Sydney T. Schulman V. Connecticut State Contracting Standards Board. All voted in favor. The Board entered into executive session at 11:55 A.M.

Motion made by Salvatore Luciano and seconded by Robert Rinker to come out of executive session and resume the regular session. All voted in favor. The Board exited executive session at 12:00 P.M. and resumed regular session.

9. Adjournment

Motion made by Robert Rinker and seconded by Alfred Bertoline to adjourn. All voted in favor, the motion passed and the meeting was adjourned at 12:01 P.M.

Respectfully submitted: David Guay