



STATE OF CONNECTICUT  
OFFICE OF GOVERNMENTAL ACCOUNTABILITY  
STATE CONTRACTING STANDARDS BOARD

Final & Approved  
Minutes

State Contracting Standards Board  
4e-36 Contested Solicitations and Awards Subcommittee Meeting  
10:00 A.M., Friday, April 26, 2019  
Fifth Floor Conference Room  
18-20 Trinity Street  
Hartford, Connecticut

Members Present:

Robert Rinker, Chair  
Bruce Buff

David Guay, Ex-Officio, Executive Director

1. Call to order

Meeting was called to order at 10:00 A.M. by Robert Rinker, Subcommittee Chair.

Chair Rinker provided an opportunity for everyone in attendance to introduce themselves.

Also in attendance:

Attorney Drew Graham, Assistant Attorney General  
Attorney Tony Famiglietti, Assistant Attorney General  
Carol Wilson, Director of Procurement, Department of Administrative Services  
Attorney Devin Marquez, Deputy Director of Procurement, Department of Administrative Services  
Attorney Margaret Donahgher, Department of Administrative Services  
JP Hernandez, American Dream Clean  
Attorney Lawrence Rosenthal, representing American Dream Clean  
Attorney Katie Roy, representing American Dream Clean

2. Approve the minutes of the April 17, 2019

Motion made by David Guay and seconded by Bruce Buff to approve the minutes of the April 17, 2019 meeting of the State Contracting Standards Board 4e-36 Contested Solicitations and Awards Subcommittee. All voted in favor.

### 3. American Dream Clean contest

Chair Rinker initiated discussion by reviewing the timeline of events.

#### Draft

#### American Dream Clean LLC

1. On Saturday, April 6, 2019, JP Hernandez, CEO and Founder of American Dream Clean LLC sent an email to David Guay, Executive Director of the State Contracting Standards Board, requesting information on how to file a contest of a public bid with the State Contracting Standards Board (SCSB).
2. On Monday, April 8, 2019, Mr. Guay responds to Mr. Hernandez stating that he may submit his contest via email to him (Mr. Guay). He includes a copy of the governing statute 4e-36.
3. On Monday, April 8, 2019, Mr. Hernandez submits his contest in a form that was initially drafted as a legal complaint.
4. On Wednesday, April 17, 2019, after a proper notice, the SCSB's 4e-36 Contested Solicitations and Awards (Subcommittee) meets in an open session in Mr. Guay's office.
5. At the meeting on April 17, 2019, the subcommittee decided to request information from the Department of Administrative Services (DAS) and to set a date for the next meeting. The subcommittee would notice DAS and Mr. Hernandez that the next meeting would be April 26, 2019 at 10:00 a.m.
6. On April 17, 2019, Mr. Guay sent an email to Carol Wilson, Director of Procurement Programs Services for DAS, requesting the following information:
  - a. The RFP for both contract 19PSX0014 and RFP18PSX0263
  - b. The proposal response for both 19PSX0014 and RFP18PSX0263
  - c. Was RFP 18PSX0263 evaluated?
  - d. Why was RFP 18PSX0263 pulled and why was a contract not awarded?
  - e. Who was on the evaluation team for both contract 19PSX0014 and RFP18PSX0263?
  - f. When did Mr. Hernandez of American Clean receive notice that it did not receive the contract 19PSX0014?
7. On April 17, 2019, Ms. Wilson responded, in part, that there is litigation pending on this.

8. On April 17, 2019, upon receipt of the information that there was litigation, I went to Connecticut's Judicial website and found the case, American Dream Clean LLC vs. State of Connecticut Department of Administrative Services dated March 20, 2019.
9. On April 17, 2019, I sent a copy of the Verified Complaint to subcommittee members Bruce Buff, Stu Mahler, and to Mr. Guay and Larry Fox, chairperson of the SCSB. I noted in the email sections 21 and 29. I also noted the link to the case on Connecticut's Judicial website.
10. On April 18, 2019, Ms. Wilson sent an email that the information would be provided to Mr. Guay on Monday, April 21, 2109.
11. Subsequently on April 18, 2019, Ms. Wilson emailed Mr. Guay a response to the Subcommittee's request with a notation that some of the requested information would be delivered on a flash drive on Monday, April 22, 2019.
12. A flash drive with additional requested information was delivered to Mr. Guay on April 22, 2019.
13. The first issue before the Subcommittee is whether the contest was timely filed with the SCSB. The Statute states that a contest has to be filed not later than 14 days after such bidder or proposer knew or should have known of the facts giving rise to such contest.
14. Mr. Hernandez in his contest to the SCSB refers to an initial draft legal complaint with a date of February \_\_\_\_, 2019.
15. On March 20, 2019, a Verified Complaint is filed in Hartford Superior Court which is similar to the drafted legal complaint filed with the contest to the SCSB on April 8, 2019.
16. In the Verified Complaint of March 20, 2019 in Section 21, it states, "On or about March 15, 2019, plaintiff was advised that it did not receive the contract for Project Two."
17. In the Verified Complaint of March 20, 2019 in Section 22, it states, "At our (sic) around that time, Project Two was awarded to Coastal Cleaning LLC. The contract awarded in Project Two is attached hereto as Exhibit D."
18. Mr. Hernandez signed a verification of the complaint in which he states that he has read the foregoing Verified Complaint for Declaratory and Injunctive Relief and verifies it is true to the best of his knowledge and belief. This was signed and dated on March 20, 2019.
19. If we were to give the most generous view of our statute and the 14 days for the filing of the contest, it would commence on March 20, 2019 and end on April 3, 2019. A less generous view of the timeframe is that Mr. Hernandez knew or should have known of the facts one would point to his filing of contest on April 8, 2019 with an attached draft legal complaint written some time in February 2019.

Chair Rinker provided Mr. Hernandez the opportunity to respond why the subcommittee should consider the contest to be timely filed with State Contracting Standards Board.

Representing Mr. Hernandez, Attorney Lawrence Rosenthal argued that the contest was filed timely in that Mr. Hernandez did know or should have known of the facts giving rise to such contest until April 2, 2019 when DAS provided information via a FOIA request, putting the contest within the fourteen day period.

Chair Rinker provided representatives of DAS to respond. Carol Wilson stated they noticed Mr. Hernandez of the contract award on March 15, 2019 and believes the fourteen days should begin on that date.

Chair Rinker asked Attorney Rosenthal what the facts are that were received on April 2, 2019 via the FOIA request.

Attorney Rosenthal offered to provide the Board with a letter by the close of business today, April 26, 2019 outlining the specific facts.

Chair Rinker suggested setting a time for when the additional facts contained in the FOIA request relating to the filing of a contest on April 8, 2019 should be provided and then set the next meeting date and time. May 2, 2019 at 2 PM was determined to be the time and date of the Subcommittee's next meeting.

Chair Rinker reviewed what further information the Subcommittee expects to receive. Attorney Rosenthal will provide the Subcommittee with a letter by the close of business today, April 26, 2019 outlining the facts received via the FOIA request that support the contest filed on April 8, 2019. Bruce Buff requested from DAS the criteria for making the award for contract 19PSX0014, a matrix of pricing provided and the number of proposals received.

Chair Rinker reminded the participants that the Subcommittee hopes to conclude this matter on May 2, 2019 and that any material the Subcommittee doesn't have and needs to be gathered will prolong the matter.

#### 4. Adjournment

Motion made by Bruce Buff and seconded by David Guay to adjourn at 11:19 A.M. All voted in favor.

Respectfully submitted: David Guay