

PREQUALIFICATION COMMITTEE
OPEN SESSION
MINUTES – AUGUST 9, 2012
1:00 P.M. EDT

The following Committee members attended the meeting:

Tiffany Mulligan	Director of Economic Opportunity and Prequalification; Chair and Non-Voting Member
Karen Macdonald	Prequalification Engineer; Committee Secretary and Non-Voting Member
Greg Kicinski	Director of Project Management; Voting Member
Joe Novak	Crawfordsville District Construction Director; Voting Member
Mark Ratliff	Director of Economics, External Audit, and Performance Metrics; Voting Member
John Wright	Director of Highway Design and Technical Support; Voting Member
Shelly Gottschalk	Executive Operations Manager, Capital Program Management; attending for Jim Stark as Voting Member
Greg Pankow	State Construction Engineer, Construction Management Division; attending for Mark Miller as voting member

Also in attendance:

Heather Kennedy	Attorney, Economic Opportunity and Prequalification Divisions; INDOT
Maurice Moubray	Prequalification Auditor; INDOT
Fred Bartlett	Prequalification Research Analyst; INDOT
Vickie Brown	L. L. Brown, LLC
Billie Brown	L. L. Brown, LLC
Gary Swope	Accountant for L. L. Brown, LLC

The Committee reviewed the following agenda items:

1. Adoption of August 2, 2012 Meeting Minutes
2. L. L. Brown, LLC – Appeal of denial of Prequalification

PREQUALIFICATION COMMITTEE MEETING
OPEN SESSION
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Ms. Mulligan, Committee Chair, called the meeting to order at 1:01 p.m. EDT. All Committee members were present, with the exception of Mr. Miller, Mr. Stark, and Mr. Woodruff. Mr. Greg Pankow attended for Mr. Miller. Ms. Shelly Gottschalk attended for Mr. Stark.

Ms. Mulligan asked that everyone sign the sign-in sheet that is circulating. She facilitated introductions of all individuals attending the meeting.

Ms. Mulligan stated that Ryan Gallagher will be replacing Troy Woodruff on the Committee starting with the next meeting. Mr. Woodruff requested to continue to be informed of Committee decisions.

1. Adoption of August 2, 2012 Meeting Minutes

Ms. Mulligan called for consideration of the Executive Session meeting minutes from the August 2, 2012 meeting. There are two versions of the Executive Session minutes in the Committee members' packets. The full version of the Executive Session minutes will not be posted due to confidentiality of the subject matter and the Committee does not vote to adopt those minutes; however, the Committee will consider and vote to adopt or amend the shortened version of the Executive Session minutes. Once adopted, the Prequalification Division will post the minutes on the Committee's website.

Ms. Gottschalk moved to adopt the Executive Session meeting minutes for public posting from the August 2, 2012 meeting. Mr. Novak seconded the motion. All members voted in favor.

Ms. Mulligan called for consideration of the Open Session meeting minutes from the August 2, 2012 meeting.

Mr. Wright moved to adopt the Open Session meeting minutes from the August 2, 2012 meeting. Mr. Pankow seconded the motion. All members voted in favor.

Ms. Mulligan stated the minutes would be posted on the website within a few days.

2. L. L. Brown, LLC – Appeal of denial of Prequalification

Ms. Mulligan introduced this item regarding L. L. Brown, LLC (Brown). The Committee is considering an appeal to the denial of their prequalification renewal application.

Ms. Mulligan stated that the Committee meeting procedures are a little different with an appeal. A representative from Brown will present their case first, then INDOT will have the opportunity to respond, and then the floor will open up for questions.

Ms. Mulligan stated that copies of the appeal letter and denial letter, a memo from the Prequalification Auditor Maurice Moubray, and confidential information about Brown's prequalification history are in the members' packets. She asked if this information had been provided to Brown.

Ms. Macdonald replied that she gave packets to Ms. Brown and Mr. Swope when they arrived before the meeting.

Mr. Swope stated that the statement in Mr. Moubray's memo about Brown changing names is incorrect. L. L. Brown Construction Company, Inc. still exists but is no longer performing work. Mr. and Mrs. Brown started L. L. Brown, LLC as a partnership. Doing business as this entity allows them to build up social security deposits before they retire.

Mr. Swope stated that he has had Mr. Ray Stamper review his work papers in the past because Mr. Swope is not a licensed accountant. He stated that he copied page five of the application (the Certificate of Review) because he couldn't print out all of the pages of the application. He had Mr. Stamper review the prequalification application and work papers on Brown's financials. He stated that Mr. Stamper signed the Certificate of Review with a felt pen. Later Mr. Stamper informed him that he should not have signed the Certificate of Review because his license had expired.

Mr. Swope stated that he had been in the hospital, and while he was out sick, Ms. Brown picked up the application from his office. Ms. Brown and Mr. Swope's secretary did not realize the application was not complete.

Ms. Heather Kennedy, Attorney for the Prequalification Division, stated that on July 2, 2012 the Prequalification Division denied the application submitted by Brown due to three reasons: 1) the Certificate of Review was not an original document with original signature; 2) the accountant listed on the Certificate of Review was not licensed with the Indiana Public Licensing Agency (IPLA), and 3) the Certificate of Review submitted with the application was a copy of the Certificate of Review that had been submitted with Brown's 2008 application. The Prequalification Division did not know who made the copy of the Certificate of Review and included it with the current application. Mr. Stamper is not a registered Certified Public Accountant or Public Accountant. After the denial letter was sent to Brown, the application was

resubmitted with the Certificate of Review signed by Ms. Tracy Reardon, who is a licensed Certified Public Accountant.

Ms. Mulligan stated that this issue was brought to the Committee because it is an appeal of the Prequalification Division's denial of Brown's prequalification. If the Committee upholds the denial, then Brown will have to wait 90 days before resubmitting another application.

Mr. Kicinski asked Ms. Mulligan to explain the 90 day requirement in the rules.

Ms. Mulligan stated that in accordance with Indiana Administrative Code 105 IAC 11-2-5(b), Change in Certificate of Qualification, "...an applicant who has been refused qualification... may at any time after the expiration of 90 days from the date of the department's previous decision request a change in or file a new application for qualification."

Ms. Gottschalk asked if the Committee can consider the application resubmitted with Mr. Swope's July 16, 2012 letter, even though we are here for the appeal of the denial of Brown's original prequalification application.

Ms. Kennedy stated that she thinks the Committee can consider the resubmitted application.

Ms. Gottschalk stated that you can see ten points that match when looking at the signatures on the 2007 certificate and the 2011 certificate.

Mr. Pankow stated that it seems to be an issue with the accounting firm and not the contractor.

Mr. Pankow asked Mr. Swope where the original signature from Mr. Stamper is to which he referred.

Mr. Swope stated that he had copied page five from the December 31, 2007 application and whited-out the fields and had Mr. Stamper sign it. He stated the wrong page five was submitted with the application.

Ms. Mulligan stated that it appears that the top of the document was changed but the bottom wasn't. Thus, the submitted certificate did not have a new signature. It was Mr. Stamper's signature from when he signed the 2007 certificate.

Ms. Gottschalk asked Mr. Swope if he has a copy of the original 2011 Certificate of Review signed by Mr. Stamper at his office.

Mr. Swope replied that he probably has already shredded it.

Ms. Brown stated that while Mr. Swope was in the hospital, she picked up the application and didn't realize it was incomplete.

Ms. Gottschalk stated that INDOT did not receive the 2011 document with Mr. Stamper's signature on it. We have two documents with Mr. Stamper's signature from 2007.

Mr. Swope asked if INDOT wants Brown to submit a new Certificate of Review with Mr. Stamper's signature.

Mr. Swope stated that he did not know the Certificate of Review was incomplete until Brown received the denial letter.

Mr. Swope stated that after hearing about the denial, he thought that submitting a new Certificate of Review with Ms. Reardon's signature would be acceptable.

Mr. Kicinski stated that he is content with the issue now that the Certificate of Review is in order.

Mr. Novak stated that we do not have to have Brown come back in 90 days.

Ms. Mulligan stated that the Committee has several options. We can recommend approval of Brown's prequalification, we can recommend setting a capacity reduction or other change, or we can uphold the denial of Brown's prequalification and then Brown would have to wait 90 days to resubmit another application.

Ms. Gottschalk stated that she is concerned with the circumstances of the denial and suggested that it be addressed.

Ms. Mulligan stated that the Committee can ask for additional information or could request a letter from Mr. Stamper.

Mr. Pankow asked Mr. Swope how long it takes to review the working papers before signing the Certificate of Review.

Mr. Pankow stated that the explanation of using a felt pen does not ring true. He also stated that if it takes a long time to review the working papers versus taking an hour, he would consider his response differently.

Mr. Pankow asked Mr. Swope if he had been registered as an accounting practitioner.

Mr. Swope stated that he let his license expire.

Ms. Brown stated that she would not let this happen again.

Mr. Wright stated that the Committee has not heard how long it takes to review the working papers.

Mr. Swope stated it takes one to one and a half hours to do the review.

Ms. Gottschalk asked if the Committee could move to approve the application contingent upon receipt of a letter from Mr. Stamper.

Mr. Novak asked Mr. Moubray about Brown's bidding capacity.

Ms. Macdonald stated that the Committee cannot discuss specifics of a contractor's financial condition in open session.

Mr. Novak restated his question and asked Mr. Moubray about the financial categories.

Mr. Moubray replied that with a reviewed statement, the contractor is limited to a maximum of \$1 million in bidding capacity.

Ms. Gottschalk suggested that the Committee ask for a letter from Mr. Stamper stating that he signed the Certificate of Review for Brown's December 31, 2011 financials and noting that his accounting license was not valid. We need to know that Mr. Stamper signed the Certificate of Review.

Mr. Pankow asked Mr. Swope if he knew what the cycle is for renewing accountants' licenses.

Mr. Swope replied that he did not know.

Mr. Ratliff replied that the accounting licenses are on a two year cycle.

Mr. Pankow stated that the letter should also mention when Mr. Stamper's license expired.

Ms. Mulligan stated that we need a motion.

Mr. Pankow moved to accept Brown's application with Ms. Reardon's Certificate of Review pending the submission and acceptance of a letter from Mr. Stamper explaining that he signed the Certificate of Review for Brown's 2012 prequalification application and stating when Mr. Stamper's accountants' license expired.

Ms. Gottschalk suggested that the letter from Mr. Stamper be notarized.

Mr. Kicinski seconded the motion.

Mr. Swope asked if the letter could be faxed to INDOT or if it had to be mailed.

Ms. Mulligan replied that they can fax or email it, but they also should mail it in too.

Mr. Swope asked if INDOT would have a problem with him notarizing Mr. Stamper's letter.

Ms. Brown replied that they will have someone else notarize it.

Ms. Mulligan called for a vote of the motion on the table.

All Committee members voted in favor.

Ms. Mulligan stated that because the Committee did not vote to set a capacity reduction or uphold the denial of Brown's prequalification, the decision does not have to go to the Commissioner for approval; however, we will notify him of the decision in a memo.

Ms. Mulligan asked for a motion to adjourn the meeting.

Mr. Kicinski moved to adjourn the meeting, and Mr. Wright seconded the motion. All members voted in favor of adjourning the meeting.

Ms. Mulligan adjourned the meeting at approximately 1:40 p.m. EDT.