

PREQUALIFICATION COMMITTEE  
MINUTES – MARCH 22, 2011  
9:00 A.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
Tony Hedge	Director of Accounting; Voting Member
Greg Kicinski	Director of Project Management; Voting Member
Mark Miller	Director of Construction Management; Voting Member
Louis Feagans	Project Management Supervisor; attending for Jim Stark as voting member
Russ Brittain	Roadway Review Supervisor; attending for John Wright as voting member

Also in attendance:

Mike Rowe	Prequalification Auditor, INDOT
John Leming	Prequalification Research Analyst, INDOT
David Holtz	Deputy Commissioner of Engineering Services and Design Support, INDOT
Gabe Paul	Attorney, Legal Division, INDOT
Scott Adams	Director of Real Estate, INDOT
Todd Clift	Relocation Manager, INDOT
Bob Hazzard	Buying Manager, INDOT
Stanley Smith	Area Manager, PB Americas
Cristine Klika	PB Americas

Fred Craig	Project Engineer, PB Americas
Gabriel Becker	O.R. Colan Associates
Todd Salvatore	O.R. Colan Associates
Gregg Townsend	Gregg A. Townsend
Paul Berebitsky	Indiana Construction Association (ICA)
Greg Rominger	Burgess & Niple; American Council of Engineering Companies (ACEC)
Stephen Christian	Stephen J. Christian & Associates; American Council of Engineering Companies (ACEC)

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The Committee reviewed the following agenda items:

1. Adoption of March 3, 2011 meeting minutes
2. PB Americas, Inc., O. R. Colan Associates, Gabe Becker, and Gregg Townsend – Errors and omissions of pertinent information during the acquisition/relocation process on Project No. 0500440, L/A Code 5368, Parcel 307

PREQUALIFICATION COMMITTEE MEETING  
OPEN SESSION  
MARCH 22, 2011

Ms. Mulligan, Committee Chair, called the meeting to order at 9:04 a.m. EDT. The following Committee members were absent: Joe Novak, Jim Stark, Troy Woodruff, and John Wright. Mr. Russ Brittain attended for Mr. Wright. Mr. Louis Feagans attended for Mr. Stark.

Ms. Mulligan facilitated introductions of individuals present.

1. Adoption of March 3, 2011 Meeting Minutes

Ms. Mulligan called for consideration of the meeting minutes from the March 3, 2011 meeting. She pointed out that the agenda incorrectly indicated the date of the meeting as March 3, 2010. Because this was a typo, the prequalification staff will correct the agenda posted online.

Mr. Kicinski moved to adopt the meeting minutes from the March 3, 2011 meeting. Mr. Miller seconded the motion. All members voted in favor. Ms. Mulligan stated the minutes would be posted on the website.

2. PB Americas, Inc., O. R. Colan Associates, Gabe Becker, and Gregg Townsend – Errors and omissions of pertinent information during the acquisition/relocation process on Project No. 0500440, L/A Code 5368, Parcel 307

Ms. Mulligan explained the Committee meeting procedures: a representative from INDOT presents the issue first, the contractor is allowed to respond, then Committee members and anyone else present may ask questions.

Ms. Mulligan introduced Mr. Scott Adams, INDOT's Director of Real Estate.

Mr. Adams introduced the item and stated the particular parcel is on the I-69 project. He referred to it as the McKinney parcel. Mr. Gabe Becker was the relocation specialist, and Mr. Gregg Townsend was the buying specialist assigned to the parcel.

Mr. Adams stated the McKinney parcel was a complicated acquisition and relocation due to 1.) a large amount of personal property, 2.) a 42 foot x 90 foot pole barn which stored the personal property, 3.) the difficulty in finding suitable comparable replacement properties, and 4.) the use of buying and relocation incentives. The I-69 project has a tight schedule and numerous parcels. Because of this and the timeframes for the incentives, the consultants involved should have taken a higher level of care than they did.

Mr. Adams stated that the initial offer was made on the McKinney parcel on June 16, 2010, which included presentation of comparable properties. Ms. McKinney rejected the comparables. A second offer with more comparables was presented on June 18, 2010. The clock started on June 18, 2010. The administrative settlement was signed in August 2010, which was outside the thirty day buying incentive period.

Mr. Adams stated that the INDOT Office of Real Estate (ORE) discovered there was an issue with this parcel in October 2010, and they started watching this issue at that time.

Mr. Adams stated that the agents did not properly communicate the incentive programs with the time constraints to the parcel owners. ORE had a meeting with the consultants and tried to redirect the property. The parcel owners needed to vacate the property within certain time limits to be eligible to get the incentives.

Mr. Adams stated that the two agents have done good work for INDOT in the past. Communication is good now, and both agents have performed exemplary since ORE got involved with this issue.

Mr. Stan Smith, Area Manager for PB Americas, Inc. (PB), stated that PB is honored to be on the I-69 team. The project has a tight timeframe. There are over 600 properties. The buyer, Mr. Gregg Townsend, is very experienced.

Mr. Smith stated that the relocation agents, Mr. Gabe Becker and Mr. Todd Salvatore, have worked well and provided many relocation offers. They elected to have Mr. Salvatore stand in for Mr. Becker to meet timeframes.

Ms. Cris Klika from PB passed out a handout from PB to Committee members.

Mr. Gregg Townsend, an independent buying agent, stated he has worked on 464 parcels for INDOT without complaints. The offer on the McKinney parcel was made on June 16, 2010, and was challenged. Another offer was made on June 18, 2010. The paperwork was in INDOT hands for 23 of 37 days. On August 17, 2010, the administrative settlement was approved. The offer was made to the property owners on August 19, 2010, and at that time the owner then asked to keep cabinetry, appliances, grain bins, etc. Mr. Townsend stated he worked to get the value of these items to retain and revised the administrative settlement with retainage. He stated he drove many miles and gave up time with family to make the last offer to the property owners.

Mr. Townsend stated the owner has 80 days to vacate the property to be eligible for the incentive.

Mr. Townsend stated that he is at a loss to understand why a consultant is brought before the Committee on a first offense.

Mr. Gabe Becker, a relocation agent for O R Colan Associates (Colan), stated he takes his job seriously and customer service seriously. He stated that he reached out to the customers so that they understood everything.

Mr. Todd Salvatore, a relocation agent for Colan, stated that there were a couple of mitigating circumstances with this parcel. There was no available housing in the area that had the same features, mainly the pole barn. The barn housed boats, jet skis, antiques, etc. There wasn't another house within 50 miles with that size pole barn. The property owner found another home in the area that was more expensive. The owner of the house for sale could not go

to closing in time, so it pushed the McKinney's closing outside of the incentive window. The McKinney's were planning to use the incentive to purchase the home. At this point, they worked to help the McKinney's to obtain the house.

Mr. Kicinski asked what the issue was with Mr. Townsend.

Mr. Adams stated that not all of the information regarding the incentive was given to the property owners.

Mr. Townsend stated that he spent several hours with the property owners on June 25, 2010 explaining the incentive.

Mr. Salvatore stated that Ms. McKinney was dissatisfied with the settlement amount but agreed to it for the ten percent incentive. He stated that if the incentive were not available, the settlement would have been higher.

Mr. Townsend stated that the incentive paperwork for relocations has vague statements. It may be difficult for the property owners to understand.

Mr. Todd Clift, ORE Relocation Manager, stated that ORE is providing better training now. To be eligible for the buying incentive, the agreement has to be signed in 30 days and the property has to be vacated in 80 days. The relocation incentive requires that the property be vacated in 80 days.

Mr. Salvatore had to leave the meeting.

Mr. Miller asked when the 80 days expired.

Mr. Adams replied the 80 days expired on Sept 6, 2010. The property was not vacated until December.

Mr. Miller asked if the delay in purchasing and vacating the property had an effect on the project.

Mr. Kincinski asked what actions the Committee can take in an errors and omissions case. He asked if a letter from the Committee is an option.

Ms. Mulligan replied that the Committee can ask for more information. The Committee can recommend to the Commissioner that actions be taken regarding the company's prequalification status, such as suspension, revocation, or a change in their prequalification. She stated that the Committee has placed letters of reprimand in a company's prequalification file before.

Ms. Mulligan stated that the request to bring these firms before the Committee was from Mr. David Holtz and Mr. Scott Adams. They are recommending that we place letters of

reprimand in these consultants' files. If the Committee chooses, we can place a letter in their file. The Committee also can vote to do nothing.

Mr. Hedge stated that we heard the claim that the buying relocation incentives are vague. We have not heard from ORE if that is true.

Mr. Adams stated that the real estate acquisition process is a different animal than designing a bridge. It is an emotional experience with property owners. We hear stories of heartache. We have to be empathetic. We still have to hold our emotions back and make judgment calls. The I-69 project is complicated. This parcel had ancillary issues that made it difficult.

Mr. Adams stated that generally these agents have performed well. The documents have been improved since this issue arose, but we had not had problems with the incentive program with other projects.

Mr. Adams stated that the I-69 project is problematic. The problems may be due to management by Colan.

Ms. Mulligan stated that although these consultants were not brought to the Committee due to multiple issues, the size of the problem can bring a consultant to the Committee.

Mr. Kicinski pointed out that PB is the prime consultant on this project, and Colan is a subconsultant as the right-of-way manager. He asked if ORE is stating there are other right-of-way issues with this project.

Mr. Smith stated that due to the nature and size of this project, there are other right-of-way issues.

Mr. Feagans asked if buying and relocation agents present their offers at the same time.

Mr. Clift stated that because of the incentives, INDOT wants both agents to go together to present the offer and explain the incentives.

Mr. Adams stated that ORE paid the incentives anyway.

Mr. Hedge asked if the Federal Highway Administration (FHWA) will accept it.

Mr. Adams responded that there is enough documentation to satisfy FHWA.

Mr. Feagans asked who is responsible for explaining the terms of each program.

Mr. Clift stated the two incentive programs work hand-in-hand so the agents need to work hand-in-hand.

Mr. Adams stated that it is integral to understand up front that the incentive program may only be available to certain parcels. In this case with the pole barn and extensive personal property, it should have been explained that the timing may not work to get the incentives.

Mr. Kicinski questioned Mr. Adams on a statement made earlier regarding other issues that have happened on I-69, and he asked if all were handled by Colan.

Mr. Hedge asked Mr. Becker how long he has worked on INDOT projects.

Mr. Becker stated that he used to work as an employee for INDOT in ORE. He stated he has done more relocations for INDOT than anybody else.

Mr. Hedge stated that Mr. Townsend earlier claimed to have worked on over 400 parcels for INDOT. He asked Mr. Townsend if he had any experience with the incentives.

Mr. Townsend stated he did not have experience with these incentives before. He stated that displacees are at a disadvantage because they have to sign in 30 days and relocate in 80 days.

Mr. Clift stated that a large amount of assignments should not be given to one person but instead be split between more people. He stated that difficult parcels need more time to be dealt with.

Ms. Mulligan asked if over-assignment of work was an issue on the I-69 project.

Mr. Clift replied yes, but stated we are on the backside of that now. The right-of-way manager from Colan is no longer involved.

Mr. Becker stated that he was asked to make the offer to the property owners ASAP. He would have preferred to be there, but Mr. Salvatore made the offer in his place.

Mr. Townsend stated that the offer was made two days after the property was available. He stated he met with the property owners that evening and worked 22 hours that day. Another offer was made that afternoon with Jacqueline Wright. He also mentioned that there was a complication due to Ms. McKinney's pregnant daughter living with them.

Mr. Holtz stated the reason we are here is because the manager of the I-69 project, Mr. Sam Sarvis, requested it. It could be stated that INDOT fraudulently paid the owner. The service provider should know his job before performing it. It is a professionalism issue. These duties were not performed as professionally as they could have been, and we want to inform the consultant what INDOT expects.

Mr. Smith stated there were challenges with the real estate acquisitions. PB has confidence in Colan, and they do not feel that this issue has affected the project. He stated that a reprimand in the file could follow PB and could affect their chance to do business. He asked that a letter of reprimand not be given to PB.

Mr. Fred Craig, Project Engineer for PB, stated that he is sorry they had to be brought to the Committee. PB got the message and is addressing these issues as they move forward. They are going above the standard of care and are involved in the day to day management of these issues.

Mr. Feagans asked if there was another reason that the agents were asked to come before the Committee.

Mr. Adams stated that reports were submitted that indicated that Mr. Becker attended the meetings with the property owners, when it was Mr. Salvatore that attended.

Mr. Becker stated that it was not his intent to misrepresent who attended the meetings. He was the responsible party and wanted the documents to reflect that.

Ms. Mulligan asked Mr. Adams to restate ORE's recommendation.

Mr. Adams stated that ORE suggests letters of reprimand be placed in the consultants' files and their work should be monitored for 90 days.

Mr. Kicinski stated he doesn't know why a letter should be issued to Mr. Townsend.

Mr. Miller stated that with contractors, we do not always take action against the prime when a sub is being reprimanded. He stated he is not sure if all parties need to be reprimanded in this case.

Mr. Kicinski stated that this is the only issue on this project that had been brought to the Committee today although reference was made to other issues. He stated he is not sure if Mr. Townsend should be included in a reprimand.

Mr. Miller moved to place letters of reprimand in the prequalification files of Colan and Mr. Becker, and ORE should monitor their performance.

Mr. Hedge stated that Colan is a subconsultant to PB. He asked if Mr. Townsend is a sub to Colan or PB.

Mr. Craig stated that Mr. Townsend is a subconsultant to PB also.

Mr. Hedge suggested that PB be reprimanded also because PB is the prime.

Mr. Miller reiterated that in the past with contractors, we have not always reprimanded the prime when the sub was reprimanded.

Ms. Mulligan asked if ORE has had issues with PB, and if so, have they been responsive.



Mr. Adams stated that the issues have been with the right-of-way management, which is being performed by Colan.

Ms. Mulligan stated that any and all of these consultants can be brought back to the Committee, even if letters of reprimand are not placed in their files.

Ms. Macdonald asked if Mr. Becker works for Colan.

Mr. Becker replied yes.

Ms. Macdonald pointed out that Mr. Becker is not a prequalified entity by himself.

Mr. Miller moved that the Committee place a letter of reprimand in Colan's prequalification file and have ORE monitor their performance for three months.

Mr. Kicinski seconded the motion.

All Committee members voted in favor.

Ms. Mulligan stated that a letter of reprimand will be placed in Colan's file, and ORE will monitor this issue for three months. This action does not affect the consultant's prequalification status so this is not a recommendation to the Commissioner; however, the Commissioner will be briefed on this issue.

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

Mr. Hedge moved to adjourn the meeting, and Mr. Feagans seconded. All members voted in favor of adjourning the meeting.

Ms. Mulligan adjourned the meeting at approximately 10:19 a.m.