

PREQUALIFICATION COMMITTEE
OPEN SESSION
MINUTES – JUNE 29, 2011
10:00 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
Joe Novak	Crawfordsville District Construction Director; Voting Member
Jim Stark	Deputy Commissioner of Capital Program Management; Voting Member
Troy Woodruff	Deputy Commissioner of Operations; Voting Member
John Wright	Director of Highway Design and Technical Support; Voting Member

Also in attendance:

Jim Burkart	Prequalification Auditor; INDOT
Susan Miles	Manager of Contract Compliance, Economic Opportunity Division; INDOT
Kent Borggren	Equal Employment Opportunity (EEO) Officer, LaPorte District; INDOT
Monica Rongere	Contract Compliance Specialist, Economic Opportunity Division; INDOT
Heather Kennedy	Attorney, Economic Opportunity and Prequalification Divisions; INDOT
Steve Heller	Compliance Investigator, Contract Administration Division;

INDOT

Daniel Elliott	Intern, Legal Division; INDOT
Danny Williams	Accounts Receivable Supervisor, Accounting Division; INDOT
Bill Isom	Jack Isom Construction Co.
Ethan Tan	Jack Isom Construction Co.
Tricia Kite	Jack Isom Construction Co.
Tom Pastore	Attorney representing Jack Isom Construction Co.
Paul Berebitsky	Indiana Construction Association (ICA)

The Committee reviewed the following agenda items:

1. Adoption of June 8, 2011 meeting minutes
2. Jack Isom Construction Co. - Follow-up from the May 24, 2011 Committee meeting
 - a. Update on prevailing wage and fringe rate compliance on Contracts B-31463 and R-27986
 - b. Update on overpayment issue on Contracts B-27216 and R-29034
 - c. Consideration of prequalification application
3. General discussion on CR-2s

PREQUALIFICATION COMMITTEE MEETING
OPEN SESSION
JUNE 29, 2011

Ms. Mulligan, Committee Chair, called the meeting to order at 10:04 a.m. EDT. All Committee members were present.

Ms. Mulligan asked that everyone sign the sign-in sheet that is circulating.

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 the audience may ask questions.

1. Adoption of June 8, 2011 Meeting Minutes

Ms. Mulligan stated that the minutes are not compiled yet and stated that they will be considered at the next Committee meeting.

2. Jack Isom Construction Co. - Follow-up from the May 24, 2011 Committee meeting

Ms. Mulligan introduced this item regarding Jack Isom Construction Co. (Isom). Isom was brought before the Committee on May 24, 2011 to consider its pending prequalification application due to wage and fringe issues on Contracts B-301463 and R-27986. Also discussed at that meeting were overpayments due to INDOT on Contracts B-27216 and R-29034. The Committee voted not to take action on the prequalification application at the time, but requested Isom to return to the Committee in thirty days to provide evidence of compliance with INDOT's rules and regulations with regards to wage and fringe benefits.

Ms. Mulligan stated that a contract is pending award from the May 11, 2011 letting due to Isom's pending prequalification application.

Ms. Mulligan stated that the Economic Opportunity Division (EOD) submitted information that was provided in the members' packets. This information was provided to Isom at the meeting. Ms. Mulligan provided an email from Mr. Danny Williams, INDOT Accounts Receivable Supervisor, dated June 24, 2011 which indicated that Isom is current with payments on the installment note to the Indiana Office of the Attorney General (OAG). Ms. Mulligan stated that representatives from EOD and Accounting will provide updates on the issues.

Mr. Kent Borggren, LaPorte District Equal Economic Opportunity Officer, stated that after the May 24, 2011 Prequalification Committee meeting, the EOD requested the following information from Isom:

1. A list of employees who worked on Contract R-27986 between July 1, 2010 and December 31, 2010

2. A list of employees who worked on Contract B-31463 between October 1, 2010 and March 31, 2011
3. The weekly hours worked for each employee for the above noted contracts and time periods
4. The amounts deposited into approved funds as fringe benefits for the above noted contracts and time periods
5. The statements from the approved fund where the funds were deposited showing the deposits for the specific employees

Mr. Borggren stated that Isom submitted the information on the due date of June 15, 2011. After that point, additional information was requested as a matter of clarification.

Mr. Borggren stated that the information Isom submitted shows a deposit Isom made to the Money Purchase Plan at Lafayette Bank and Trust on June 13, 2011 and it looks like it covered the amount owed based on the amount Mr. Borggren had previously calculated. Mr. Borggren stated the only information that is still missing is information showing the individual account deposits.

Ms. Mulligan asked if there was anything else to report.

Ms. Miles stated that EOD has an on-site review scheduled with Isom. She stated that Isom submitted the information in preparation for the review and they were timely.

Ms. Mulligan stated that the EOD does periodic on-site visits to comply with FHWA. She stated that Isom was scheduled for a review this summer and it just so happens the meeting is scheduled for tomorrow.

Mr. Tom Pastore, attorney for Isom, stated that he would like to discuss the issue with the amounts reported on the individuals. He provided a letter from First Merchants Trust Company to Isom dated June 28, 2011. He stated the letter provided by the bank is hard to follow. He is concerned with providing information on the individuals, because some of the information is protected. The letter from the bank basically states that the amounts deposited in the individuals' accounts are prorated. He stated the amounts are provided to the employees and they can view their accounts online.

Mr. Pastore stated that the amount owed on the overpayments has been paid in full. He provided a copy of a check dated June 21, 2011 and made out to the State of Indiana for payment of \$20,706.06 from Isom.

Mr. Danny Williams stated that he has not yet been informed by the OAG that this payment was made.

Ms. Mulligan asked if there were any more questions.

Mr. Hedge asked EOD if the information on individuals is usually provided by other contractors.

Mr. Borggren stated that most projects are done by union contractors and they make the fringe payments to the union. He stated he does not ask for this information on every contract, but did in this case because he noticed the certified payrolls did not indicate that fringes were being paid to a retirement account.

Mr. Pastore stated that they have to make sure the information that is provided is done so by following the rules. Some of the individuals' information is protected. On union contracts the information can be provided, there is a process that is already set up to request that information. In this case there is no established process.

Mr. Bill Isom, President of Isom, stated that the retirement fund provided the requested information in a sealed envelope, and he provided it to Mr. Borggren.

Ms. Tricia Kite from Isom stated that the amounts provided by the third party administrator (TPA) show the previous year end balance. Then they take the amounts paid to the employees and they use a percentage of the total amount to be deposited to the main account.

Mr. Pastore stated that the bank will not state that there are individual accounts, but that there is an umbrella account and the totals will add up.

Ms. Kite stated that there is an expense for the TPA and that the amounts allocated to the individuals are based on the percentage that each individual has in the account.

Mr. Pastore stated that Ms. Kite is a bookkeeper and is not an accountant and not the TPA. She provides the information on payrolls to the TPA and the TPA then lets them know how much the total is to provide at the end of the year to be allocated to the individuals.

Mr. Hedge asked if EOD is satisfied with the information as explained.

Mr. Borggren stated that for the two contracts in question he is satisfied.

Ms. Mulligan stated that she would recuse herself from voting if there is a tie. Isom has provided the information in a timely manner and they have provided other information as EOD has asked for it. EOD will continue to monitor other Isom projects. Other district EEO officers have other Isom projects and they will check payrolls.

Mr. Woodruff asked what the recommendation was for this issue.

Ms. Mulligan stated that this is a different situation. Isom's prequalification application was pending when the information on these two issues was brought to our attention.

Ms. Mulligan stated that EOD is comfortable with the information and explanations provided by Isom. EOD will continue to monitor Isom, but we are confident that Isom knows what they need to provide in the future.

Ms. Mulligan stated that the pending prequalification worksheet is in the members' packets. The worksheet shows no reduction in bidding capacity. The Committee can vote to reduce Isom's capacity.

Mr. Woodruff asked if the Accounting Division is satisfied with the overpayment issue.

Mr. Williams stated that even though he has not received confirmation on the lump sum payment by Isom, Isom is up to date on the installment payments and at this point they are current.

Mr. Miller stated that he is satisfied that the issues have been addressed; however, he is disappointed that it took from 2008 to now to pay back the overpayments.

Mr. Stark stated that if the issues are brought to the Committee sooner then it could be resolved sooner.

Ms. Mulligan stated that Accounting is now notifying the Prequalification Division when there are repayment issues.

Mr. Stark moved to approve the prequalification application without reduction in capacity.

Mr. Woodruff seconded the motion.

All Committee members voted in favor.

Ms. Mulligan stated the action will not go through the Commissioner because it was not a change in Isom's prequalification status. We will send a letter to Isom along with the Certificate of Qualification and we will send a memo to the Commissioner.

Mr. Pastore asked about the pending contract.

Ms. Mulligan stated that it will go through the regular process.

3. General discussion on CR-2s

Ms. Macdonald introduced this agenda item. She stated that the Prequalification Division is not receiving all CR-2's. Some districts submit the CR-2's in bunches during the off season. She stated that Jim Keefer, Fort Wayne District Construction Engineer, contacted her regarding his involvement in updating the procedure regarding distribution of CR-2's. She stated that he has recommended the districts follow the Seymour District's custody sheet procedure. Frequently all CR-2's are given to the prime contractor to hand out to their subcontractors. The districts do not always get the CR-2's back signed by the contractors. Copies of the CR-2's are not sent to the Prequalification Division until the signed copy is returned. The custody sheet is a way to track the return of the signed CR-2's by contract.

Ms. Macdonald stated that she brought this item to the Committee with two suggestions: 1) In the short term we can emphasize that the districts need to submit the CR-2's to the Prequalification Division and possibly send in a copy at the same time it is provided to the contractor; and 2) we would like a long term project to get the form filled out online. This would require getting INDOT's Management Information Systems (MIS) involved. Ms. Macdonald stated that the long term project should be a joint effort with the Prequalification Division and the Construction Management Division. Having the form online and having the scores in a database would allow us to run reports.

Ms. Mulligan stated that we wanted to bring this to the Committee because some Committee members have asked why we don't have current CR-2's.

Mr. Stark asked when the CR-2's are reviewed.

Ms. Macdonald stated that the individual CR-2's are filled out by the project supervisor and reviewed by the area engineer. Some of the area engineers wait to review them during the winter. The CR-2's are reviewed by the Prequalification Division when the contractor's prequalification is renewed.

Ms. Mulligan stated that at the last Prequalification Committee meeting, the Committee asked that we request interim CR-2's for any outstanding contracts on Calumet Civil Contractors, before they come back to the Committee at the end of July. We have received some CR-2's, but they are all from one person.

Mr. Miller stated that he can send an email to the districts reminding them to submit the interim CR-2's

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

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

Ms. Mulligan adjourned the meeting at approximately 10:45 a.m.