

CONTROLLING BOARD

OHIO OFFICE OF BUDGET AND MANAGEMENT

MINUTES OF THE JULY 21, 2003 MEETING

President Lisa Dodge called the Controlling Board meeting to order at 1:55 p.m. Serving on the Controlling Board were Senator Bill Harris, Representative James Hoops, Senator James Carnes, Representative Anthony Core, Senator Tom Roberts and Representative Sylvester Patton.

The minutes of the July 7, 2003, meeting was distributed. A motion to approve the minutes was made by Senator Harris, seconded by Representative Hoops and approved by the Board members.

Attached is the July 21, 2003, meeting agenda. A motion for blanket approval of all items not held for questions was made by Representative Hoops, seconded by Senator Harris and approved by all Board members.

Senator Tom Roberts distributed a letter to the members expressing his concern regarding agencies purposely circumventing Controlling Board approval on questionable items.

The following items were discussed and acted upon as stated.

Item 1, TOSO09-04 was held by Senator Harris, Representative Hoops and Senator Roberts. Senator Harris asked if consideration was given to doing a complete new RFP to ensure that the opportunity to bid was made available to agencies with new technology. Gary Smith, Treasurer of State's Office, said it was. Senator Harris asked if the Board could be given a timeframe as to when it will be considered. Alan Lib, IT Department, said TOS was evaluating other vendors in Ohio and outside of Ohio for this expertise, but he could not guarantee or identify a time frame. Representative Hoops asked if TOS was looking at other vendors who could do this same type of service. Mr. Lib said yes, the agency was looking at other vendors. Senator Roberts said it appeared to him that this was a retroactive contract signed by the Treasurer's Office on July 2, and asked if that was the case. Mr. Smith said yes. Senator Roberts asked what would happen if the Board would not approve the contract. Mr. Smith said currently QED is providing an essential securities service. The item was approved without objection.

Items 3, CWR232-04; 4, CWR233-04; 5, CWR234-04 and 6, CWR235-04 was held as a group by Senator Carnes, Representative Hoops and Representative Patton. Senator Carnes asked why CWR was seeking reimbursement for a down payment when there was no mention in the memo the Board received of any need for this. Robin Trail, Case Western Reserve University, Research Office, said that it wasn't until after CWR had originally requested the release that they found that a down payment was required. The university was now asking for reimbursement because they had to use university funds for the down payment. Senator Carnes asked why the university was unaware of the requirement. Ms. Trail said they were just made aware that this was the process that had to be used. She said that since CWR is a private institution, they can use university funds and be reimbursed. Ms. Trail responded that the university does understand. Representative Hoops asked what are you actually doing to make sure we don't see you back here in the future because of this issue. Ms. Trail responded that our intention is to whenever possible to get the funds released from the state. Representative Patton suggested the university look for a company that does not require money up front. He thought the university could be dealing with a number of small companies that might not have the capital flow which would necessitate paying a large amount of money up front. I think that is a lot of money. I think we should deal with a larger company or competitively bid it. If an RFP has been put out with what you are looking for, I would not choose a company that would ask for 60% of anything up front before they begin. They have already entered into a contract, which is making them liable anyway, but to have money up front that's telling me they are using your money to purchase

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and make the product and then selling it to you. That is one thing that I think the university should look at and definitely I would not go into any contract because we are talking about not one, not two, not three, but four that ask for 60% and I think that is bad business and that would be one place to start to correct that and you won't face that problem again. Senator Roberts said he agreed with Representatives Hoops and Patton. He felt the paper trail indicated that the university knew in September of last year what it had to do when it got approval from the Board in November. I think public institutions have to live by the rules. I think the university should just take the recommendation from the panel and work with the rules. The items were approved without objection.

Items 19, BaR 111-0405 and 21, BaR 114-04 were held by Senator Harris. Senator Harris asked if the dark fiber is too expensive for two facilities in Columbus, then why was it less expensive to have it go to all the universities throughout the state. Jim Nargang, Board of Regents, said there was not a direct conduit between the Rhodes Tower and 57 Main and therefore there would have been additional costs to the agency to make that solution work. Al Stokes, Interim Director, Garnet, stated that on the connection between the universities, existing fibers were purchased from vendors willing to sell at an attractive price. Senator Harris asked what the price break was to bring all the universities together using existing cables. Mr. Nargang said fiber was purchased for approximately four million dollars. Senator Harris asked if a portion of that could be leased for other uses. Mr. Nargang said that is correct. The items were approved without objection.

Item 25, DAS361-0405 was held by Senator Roberts. Senator Roberts asked why the Lottery needs to move out of downtown Cincinnati and closer to Interstate 275. Jason Paduchik, Lottery Commission, said the move would make it easier for the sales reps to travel around that area. Senator Harris asked if it was good business to be tied to a ten-year lease. Mr. Paduchik said typically the Lottery does not do this in their leases; however, with this lease the agency was saving about \$14,000.00 a year and gaining 600 square feet. Representative Patton asked how much time and distance was being saved in making the move. Mr. Paduchik said between 25 and 35 miles. Representative Patton stated that he did not see the need, given the state's and the Lottery's fiscal situations, to enter into an agreement that would result in minimal savings. He felt it was not prudent and he could not support the request. The item was approved with Representative Roberts and Representative Patton objecting.

Item 37, DEV481-0405 was held by Senator Carnes and Representative Core. Senator Carnes asked if the entire Workforce Investment Act money was from the Governor's discretionary allocation or from the allocation that the legislature typically appropriates. Tom Johnston, Department of Development, said that it was from the discretionary fund set aside for the Governor. Representative Core asked what attempt the department made to put the line item in the budget and what the administrative reasons were that it couldn't be included. Mr. Johnston said Development's budget proposal was required to be submitted to OBM around the middle of October. The agreement between the Department of Job & Family Services and the Department of Development was actually signed on April 8, 2003, and on that 04-05 was well into the legislative process. Mr. Johnston felt it was not a big enough item for there to be an amendment made in the Senate to include it. It is not additional funding but transferring funding from one agency to another. Representative Core asked how these funds will be used. Mr. Johnston said that the funds would be used for internships for full-time students up to or a combination of up to 13 weeks of full-time employment during a single calendar year or 26 weeks of part-time employment during a single calendar year. The education awareness portion will be funded with private sector dollars and/or dollars from the institution which will be matched on a one-to-one basis. The item was approved with no objections.

Item 41, EDU293-04 was held by Representative Hoops. Representative Hoops asked who would be in charge of setting up the course work, the Department of Education or the Federal Government. Ms.

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Tavakolian, Department of Education, said this was a competitive grant and the department made a proposal of how to use the funds. Since that approval, the federal government has had a hands off approach to the project. Tom Moe, Office of Teacher Recruitment and Retention, said that the colleges will design the course work according to their schools of education and the course work will be reviewed by the Ohio Department of Education. The item was approved without objection.

Item 62, RAC239-04 was held by Representative Patton. Representative Patton asked if the contract had been bid out in ten years, and if not why. Tom Lamb, Racing Commission, said that when the Commission finds someone who knows the job, i.e., the rules of racing, and shows up, they try to keep the individual. Representative Patton suggested that in the future the Commission should put out an RFP to find out if there are other individuals interested in the position. President Dodge asked Mr. Lamb whether the Racing Commission has looked at other neighboring states. Mr. Lamb indicated we do seem to be paying a competitive price when compared to neighboring states. The item was approved without objection.

Item 65, DRC443-04 was held by Representative Core, Representative Hoops, Senator Harris, Senator Carnes and Representative Patton. Senator Carnes asked why this consolidation necessitated the purchase of new furniture. Christopher Carlson, Deputy Director, ODJFS, said the plan presented to the legislature in 2001 was to consolidate 56 local offices into 23 offices. The proposal was to move to 23 full-service leased facilities and to essentially have four walls and a carpeted area. This request is to move to a modular office system that is reconfigurable. Instead of asking each landlord in these 23 local offices to build out a facility, the department is planning to put in the modular office furniture, which can be snapped together, plugged in, powered up and ready to go. The furniture that is proposed in today's request was calculated into the cost savings that was discussed with the legislature relative to the local office consolidation.

Senator Carnes asked how the company chosen met the qualifications of the Buy American and Buy Ohio Acts. Mr. Carlson said the RFP was distributed to 86 potential vendors and was available through a Web site announcement. Any business that felt they met the specifications could have bid.

Senator Carnes asked how the industry would benefit by using OPI in the process of building office furniture in these new facilities. Mr. Carlson said the OPI System was not flexible/reconfigurable the way the department needed. OPI's was a fixed frame system and as a result JFS entered into a partnership with OPI to release an RFP so that the retail furniture community could have an opportunity to bid on this project. This partnership between OPI and a retail vendor would benefit the industry instead of the typical model wherein OPI does all the work.

Senator Carnes said he had been told that the Ohio Department of Job & Family Services renegotiated the contract after awarding the bid. He wanted to know if that was the case and if so why wasn't any renegotiation done before the department awarded the contract. Mr. Carlson said an agency puts out an RFP, requests bids and then evaluates the RFP based upon the proposals received. There may be some clarification needed. In this case, additional information was needed from the vendors. At that point, once all of the proposals are in final form and all of the questions answered, agencies are then charged with evaluating those proposals. The agency cannot simply open the negotiations with anybody because that would be in violation of the competitive process. It was only after the fair and open competition was determined, that the agency entered those negotiations.

Representative Hoops asked who put the RFP together. Mr. Carlson said the department had previously released through the Department of Administrative Services a competitive opportunity for the Air Center and MIS facility which was over 800 stations of this exact type of flexible office system. The agency had previously developed a set of specifications and it had resulted in an award at the Air Center. A list of

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specifications was provided that was needed in order for OPI to incorporate that into the RFP which they ended up writing and releasing. Mike Randle, Assistant Deputy Director, DRC, said DRC incorporated those specifications, drafted and released the RFP.

Representative Hoops asked what made the agency decide on this company as compared to the other ones. Mr. Carlson said the agency received ten proposals and of those ten there were four lower priced proposals than the proposal selected. All of the lower priced systems did not meet the requirements that are detailed in the specifications. The vendor selected had the lowest priced proposal among the remaining proposals that met the requirements of the RFP.

Representative Hoops asked what happens if this project is delayed any longer. Mr. Carlson said it would have a dramatic affect on the agency. It would, for a period of time, interrupt and delay the entire transition plan as the agency has proposed and as been approved by the legislature. Mr. Carlson said it was a crucial moment for the department.

Representative Core asked how much of the old furniture is useable. Mr. Carlson said most, if not all, of the existing furniture that is in the local offices is past useful life and will be transitioned to the Department of Administrative Service state salvage.

Representative Core asked what fixed framed, stackable, shared walls, non-shared walls meant and how it related to this project. Mr. Carlson said the system that OPI manufactures, and the systems proposed by some of the lower priced vendors, is assembled in the configuration for the number of people and for the shape of the building. A cosmetic change can be made but if an agency wanted to move it to another location it would need to be retooled, reassembled, and remanufactured in large degree to the new space. The flexible reconfigurable system in the request can be moved and resnapped together in any number of variations.

Senator Harris asked since OPI was not involved in the project at the ODJFS MIS facility, who had assembled the equipment. Mr. Carlson said the department had contacted OPI indicating that they did not manufacture or make a system that met their requirements. As the department went to the retail community through the Department of Administrative Services, the competitive opportunity was for the retail vendor to provide the system, to assemble it, install it and do everything for delivery and installation at the department.

Senator Harris asked what the amendment was intended to accomplish and if all bidders received a copy of it prior to any bidder being selected. Mr. Randle said the addendum was sent to all 86 original proposal recipients. The addendum was for clarification reasons, not only because of the questions the department wanted to expand on but also for the recipients' information regarding opportunities for OPI to do value added work and to identify what sort of cost savings could be expected as a result of that information. Senator Harris asked on that addendum what was the number of bidders that replied that indicated they intended to use OPI personnel to do the assembly. Mr. Randle said he didn't have the specific number but would supply that information later.

Senator Harris asked if after the department had chosen the company they felt had the lowest and best bid, did the department then meet with that company and have a dialogue to see if it was possible that they could provide the product in accordance with the bid at a lesser price. Mr. Randle said that was exactly what happened.

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Senator Harris asked if after the selection of the bidder was made and the department started negotiation, was there any change to the specifications of the product that would be provided. Mr. Randle said no there was not.

Senator Roberts asked if ORG, Inc., was still involved in the contract. Mr. Carlson said, yes, the base system that Thomas Ruff is providing is from a company called ORG.

Senator Roberts said ORG is simply another name for DRG, a company that went bankrupt so he questioned what could be expected from ORG. Mr. Carlson said DRG was the independent distributor of this product in the United States for this company. DRG did go out of business in 2002. This product has continued to be provided to the agency and Thomas Ruff has been very responsive on any issues the department may have had with the product. ORG is a completely viable company. ORG has not had any financial trouble. They have a new independent distributor called Mai Space. To the agency's knowledge that distributor has had absolutely no problems. In addition, that company is listed with this vendor on Ohio State Term Schedule and has been checked by DAS as a viable business company for Thomas Ruff.

Senator Roberts asked if DRG and ORG have a relationship. Mr. Carlson said they did have a relationship but it was an independent distributor relationship.

Representative Core said he would like assurance that of the four lower bidders, other than the one presented in the request, that none of them met the bid specs. Mr. Carlson said the Department of Job & Family Services believes that none of the four lower priced vendors met the specifications as detailed in the RFP. Mr. Randle said that was correct.

Representative Patton asked how many vendors are from Ohio and how many local vendors will be involved in the project. Mr. Carlson said the company in the contract that OPI is proposing to enter into is a local company on Riverside Drive. He said he didn't know their exact business structure relative to other subcontractors. Mr. Carlson said he did not know how many vendors in Ohio would be involved in this bid or how many vendors in Ohio would lose out as a result of this work. The item was approved with Representative Patton objecting.

Item 74, DOT196-04 was held by Representative Core. Representative Core said his question related to the three-year approval or extension and if the request for all the money would be up front for the next three years. Lyle Flower, Consulting Services Manager, Department of Transportation, replied that the contract would cover a three-year period and the agency would encumber all of the money up front. Representative Core asked why that would be rather than encumbering this year's money this year and next year's money next year. Mr. Flower said with the use of capital funds the agency is able to encumber the funds without the restrictions associated with operating funds as appropriated. It is DOT's practice to contract for the whole block of services and encumber all the funds as opposed to the burden of doing additional contracts and modifications over a three-year period. Representative Core said he noted in the request packet that the University of Akron was involved and had some grant dollars. He asked if there was an extension of the grant dollars as well to pay for that part. Mr. Flower said no there is not; that they would be paid directly through these funds. The grant funds were used in the initial studies and repairs that the University of Akron was involved in but the grant funds have expired and we would be paying the University through these funds through the prime vendor. The item was approved without objection.

Item 76, DOT202-04 was held by Representative Hoops and Senator Carnes. Representative Hoops asked if the other states involved with the byway are paying anything for this Web site and how much. Mr. Flower said Indiana, Illinois and Ohio are paying shares, but not equal shares. Illinois is paying

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approximately 23%, Indiana 39% and Ohio 38%. It equates to the number of lane miles and population so Ohio is actually the second in line in terms of lane miles but is actually paying slightly less than Indiana. He considered it a fair split between the states. The item was approved without objection. With no further business before the board, the meeting was adjourned at 3:55 p.m.

Respectfully submitted,

Francene Johnson
Controlling Board Executive Secretary

06/21/04 Minutes approved by the Board:
