



Chairman: David Vaught

Members: Ed Bedore, Ricardo Morales, Larry Ivory, Bill Black

April 6, 2012

Ben Bagby
Chief Procurement Officer
Higher Education
Executive Ethics Commission
514 Stratton Office Building
Springfield, Illinois 62706



Re: 50-35 Potential Conflict of Interest

Dear Mr. Ben Bagby,

In accordance with the requirements of Section 50-35 of the Illinois Procurement Code, I have reviewed your request received March 16, 2012 with requested follow up information received April 4, 2012 and understand the facts to be as follows:

- 1) The University of Illinois Champaign has issued a request for a review and comment on potential conflicts of interest disclosed by BLDD Architects Inc.
- 2) The contract pertains to the contract for architectural services for a phased renovation and capital construction project at UIUC's Natural History Building.
- 3) BLDD Architects Inc was selected using Qualifications Based Selection. BLDD was the single firm selected out of 34 responsive submittals for this project.
- 4) The disclosure form submitted on behalf of the BLDD Architects Inc indicates the following:
 - a. Shari West, wife of Randall L. West, serves as General Counsel for the Department of Agriculture. Mrs. West has been employed with the Department since 2001. Randall West has a 14.88% interest in vendor.
 - b. Jill Maxey, wife of Bruce L. Maxey, is the Associate Director of Planning, of the Facilities and Services Planning Division at the University of Illinois Champaign-Urbana. Additionally Mrs. Maxey chairs the Architectural Review Committee which interprets the UIUC guidelines and standards for professional services consultants at various campus units. Mrs. Maxey began her employment in 2003. Bruce Maxey has an 8.93% interest in the vendor.
- 5) The University of Illinois Champaign confirmed that none of the disclosed individuals were in a position to influence the award of this contract. The University of Illinois Champaign indicates that it would be in the best interest of the State to approve this conflict of interest due to the using agency's needs and the value of the contract.

Based on the foregoing, you are requesting my review and comment pursuant to the Illinois Procurement Code.

Review and Comment

After careful review of the documentation provided, the Illinois Procurement Policy Board, at the April 5, 2012 meeting of the Board, has recommended that this contract be voided. Additionally, the Board has concluded that although the University made efforts to "wall" Mrs. Maxey off from this process, the Code does not reference applicability of separation from certain projects to alleviate potential conflicts of interests. Furthermore, the Board feels that when a potential conflict of interests involves an individual or individuals that serve in a supervisory capacity, the presence of such a conflict would be very difficult to disregard by his or her subordinates. To further complicate matters, an initial interpretation of the Code on behalf of the University did not allow the Board or you as the CPO, to evaluate this potential conflict interest prior to execution causing further concerns to the responsibility of the University in making this selection. Lastly, the Board has also concluded that, in cases such as this, even the perception of such a conflict of interest can create such a level of distrust with an individual, agency or university that it becomes just as damning



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to the process as an actual conflict of interest. If you, as the CPO for Higher Education, choose to proceed with award to this vendor a public hearing shall be required and all proceedings from such a hearing will be made part of the contract, bid or proposal file and shall be available to the public. The Board holds very strongly that these decisions cannot be taken lightly and depend on you as the Chief Procurement Officer to evaluate the opinions expressed by the Procurement Policy Board and to determine what is in the best interest of the State.

Sincerely,

Aaron Carter
Executive Director