

Commission to Modernize State Procurement
September 20, 2016
16 Francis Street, 4th Floor Conference Room, Annapolis, MD 214101

Commissioners in Attendance

Lieutenant Governor Boyd K. Rutherford
Susanne Brogan, *Deputy Treasurer, Maryland State Treasurer Office*
John Gontrum, *Assistant Comptroller, Comptroller of Maryland*
David Brinkley, *Secretary, Maryland Department of Budget & Management*
Ellington Churchill, *Secretary, Maryland Department of General Services*
Jimmy Rhee, *Deputy Special Secretary, Maryland Office of Minority Affairs*
Michael Zimmerman, *Director, Maryland Department of Transportation, Office of Procurement*
Al Bullock, *Chief of Staff, Maryland Department of Information Technology*
Senator Stephen Waugh, *District 29, Member of the Education, Health and Environmental Affairs Committee*
Delegate Christopher West, *District 42B, Member of the Health and Government Operations Committee*
Delegate Dan Morhaim, *District 11, Member of the Health and Government Operations Committee*
Sheila McDonald, Esq., *Executive Secretary, Maryland Board of Public Works*
Eileen Straughan, *Straughan Environmental, Inc.*
Eric Regelin, *President, Granix, LLC.*
Ronald Lipford, *CEO, Arel Architects Inc.*
John Molnar, *Co-founder, Integrity Consulting*

Welcome

The Commission to Modernize State Procurement convened at 1:00 p.m. on September 20, 2016.

Lieutenant Governor Boyd K. Rutherford opened the meeting and welcomed the Commissioners and audience.

Discussion with the Maryland State Board of Contract Appeals (MSBCA) - Chairman Michael Collins and Clerk Michael Carnahan

Chairman Michael Collins and Clerk Michael Carnahan advised the commission that they are working with the Lt. Governor's staff on possible changes to the regulations to improve the contract appeal system. One of the topics that has been discussed was the filing of the Agency Report under COMAR 21.10.07.03c. Mr. Carnahan advised the Commission about possible changes to the wording regarding when the Agency Report should be submitted.

During Mr. Collins and Mr. Carnahan's presentation a question was raised by Delegate Morhaim asking if there were any patterns in the delays of agencies sometimes taking three to four months to submit the Agency Report. Mr. Carnahan's response was that it depends on the size of the contract and if all parties are willing to work together if more time is needed. Lt. Governor Boyd asked if the MSBCA keeps track of who the protests are coming from. Mr. Carnahan replied that the MSBCA does not because there is no consistency. Adding to Mr. Carnahan's statement, Mr. Collins stated that with virtually all bid protests, the complaint is about the Procurement Officer's determination recommending award. There is an evaluation committee who makes its recommendation to the Procurement Officer; the Procurement Officer then makes a recommendation of award to the head of the agency, who signs off on the decision. When a protest occurs, the focus of the hearing usually centers on that award recommendation by the Procurement Officer.

Mr. Collins and Mr. Carnahan also clarified the misconceptions between agency records and procurement files, in regards to what goes into each and how quickly they are produced. Mr. Collins pointed out that some agencies have trouble maintaining their procurement records, which is a problem. Because of this, the MSBCA has notified agencies, advising them to be more efficient when maintaining their procurement files.

Currently the MSBCA does not accept procurement appeal documents electronically due to the agency not having the capabilities to do so at this time. All documents needs to be delivered to the MSBCA and the interested parties. Lt. Governor Rutherford asked if there are any typical mistakes made by the agencies in the procurement process. Mr. Collins advised that there are no “typical” mistakes that are found during this process, but agencies are sometimes too comfortable with the incumbent and human nature sometimes leads to a decision to award the contract to the incumbent offeror even when it may be possible that another offeror had submitted a better-overall proposal. Mr. Carnahan added that sometimes the Procurement Officer uses boilerplate language in the Request for Proposals (RFP), which can lead to issues when the language is no longer relevant or sometimes contradictory to other language in the RFP.

Workgroup Reports

Lt. Governor Rutherford moved forward with the meeting and advised the Commission members that they will receive copies of the Workgroup reports tomorrow afternoon. Discussion points were made by each workgroup chair member in regards to their recommendation in light of the duties prescribed in the Executive Order that established the Commission.

Public Comments

Lt. Governor Rutherford opened the floor for public comments; comments were made by Will Hovell of Design Collective, Grace Fielder of Landscape Architect, and Patti Wilson of Affiliate Engineers. Most of their comments and questions were referring to Architectural and Engineering (A/E) procurements, Maryland’s Small Business Reverse Program, and Maryland’s Minority Business Enterprise Program.

Meeting Adjourned at 3:00 p.m.