



STATE PROCUREMENT OFFICE

CENTRAL SERVICES DIVISION

A Division of the
Office of Management
and Budget

Memo To: Representative Rick Berg, Chairman
Industry, Business, and Labor Committee

From: Sherry Neas, State Procurement Manager *SN*
Office of Management and Budget

Subject: Workforce Safety and Insurance (WSI) Management & Human Resources and Claims Processing Reviews

Date: February 13, 2008

This memorandum is in response to questions raised during the Industry, Business, and Labor Committee meeting on February 7, 2008, related to the WSI Reviews.

Background:

The consultants conducting the WSI reviews were selected through a competitive Request for Proposal (RFP) process. Workforce Safety and Insurance asked the Office of Management and Budget, State Procurement Office to conduct the procurement, and I was the procurement officer. The RFP and responses to vendor questions were collaborated between OMB, WSI and the Office of the Governor. The RFP was posted on the State Procurement website, and notice was sent to over 160 vendors. Only the procurement officer communicated with vendors. We received three proposals for the management and human resources review and three proposals for the claims processing review.

The RFP set forth objective evaluation criteria based on a 100 point scale weighted as follows:

- Project Strategy - 40%
- Proposed Schedule - 10%
- Experience & Qualifications - 25%
- Cost Proposals - 25%

The State Procurement Office assembled two evaluation committees of subject matter experts:

Management and Human Resources Review Evaluation Committee:

- Weldee Baetsch, former Department of Human Services Human Resources Director, former member State Investment Board and State PERS Board;
- Laurie Steriotti-Hammeren, OMB HRMS Director;
- Bryan Klipfel, retired Colonel and Superintendent for the ND Highway Patrol.

Claims Processing Review Evaluation Committee:

- Dennis Wetzel, former Department of Human Services Claims Administrator;
- Alton Nitschke, former Eide Bailly auditor with previous experience performing Workforce Safety and Insurance performance evaluations;
- Korrine Lang, Director of Planning & Support for Job Service ND, former Bank of ND Internal Audit Manager.

The OMB procurement officer oversaw the evaluation process, including reference checks and calculating the scores for cost proposals. Contracts were awarded to the top-scoring vendors:

- The Management and Human Resource Review was awarded to Mr. Henry Neal Conolly, former executive officer of the New York State Insurance Fund, who performed similar consulting work for the State Compensation Insurance Fund of California in 2005.
- The Claims Processing Review was awarded to Marsh USA, Inc., the world's and the U.S.'s largest insurance broker (Business Insurance).

Meeting:

During the Industry, Business, and Labor Committee meeting on February 7, 2008, questions were raised regarding the two consultants conducting the reviews.

Facts/Findings:

- Henry Neal Conolly - A question was raised regarding whether Kevin Ryan, one of the consultants working with Mr. Conolly had previously worked with Workforce Safety and Insurance:

Response: The RFP required that neither the firm nor any of the individuals performing work on the project have performed any work for or related to WSI within the previous five years. Mr. Conolly disclosed in his proposal the fact that in 2002 Kevin Ryan had provided actuarial services to WSI when he reviewed and reported on the WSI outside actuarial firm's (PAC) rate level filing. Mr. Ryan had also met with the WSI board while representing American Reinsurance Corp. as part of Am Re's State Fund marketing initiative in 1999. The evaluation committee confirmed that Mr. Ryan's contacts with WSI were more than five years ago.

- Marsh USA, Inc. – A question was raised regarding Marsh and the State of New York litigation.

Marsh USA, Inc. provided the following response:

The civil complaint by the New York State Attorney General included allegations of conflict of interest in connection with the practice by which insurance companies paid Marsh, and other insurance brokers, contingent commissions (i.e., compensation from insurers contingent upon such factors as the volume or profitability of the business placed with the insurer). The complaint also included allegations of fraud and anti-competitive business practices. That complaint, and a related proceeding by the Superintendent of Insurance for the State of New York, was resolved in early 2005.

The settlement followed an exhaustive investigation of the business practices at issue and extensive changes in management at MMC and Marsh. The company terminated the employment of individuals involved in misconduct, dissolved the business unit within which the conduct was centered, led the industry in suspending, and later terminating, its participation in contingent commission agreements, replaced the senior management team accountable for the conduct at issue, established an \$850 million no-fault compensation fund for the benefit of policyholder clients who might have been affected by the conduct, and implemented a series of comprehensive new compliance initiatives designed to prevent such conduct from occurring in the future.

The 2005 indictments as a result of the New York Attorney General investigation involved approximately eight former Marsh employees – a very limited involvement considering Marsh is a diversified multinational company and the largest insurance broker in the world with over 26,000 employees. The charged unethical activities were limited to the Marsh Global Brokering division which was disbanded in 2005 and is not related to the Marsh consulting division.

Conclusion:

The OMB State Procurement Office can confirm that the WSI consultants were selected through a full openly competitive, impartial, and thorough procurement process. We are confident that the consultants conducting the independent outside reviews of WSI meet the requirements of the Request for Proposals, and according to their references, they are experienced and reputable firms.

cc: Mark Gjovig, Vice Chair, Workforce Safety and Insurance Board of Directors
John Halvorson, Interim Executive Director and CEO, Workforce Safety and Insurance
Office of the Governor
Pam Sharp, Director of Office of Management and Budget