

Minutes of the Advisory Council on Procurement Lobbying
Meeting of June 14, 2010, 11:00 am
Governor Nelson A. Rockefeller Empire State Plaza, Meeting Room 5
Albany, New York

Call to Order

Chair Anne Phillips called the meeting of the Advisory Council on Procurement Lobbying (“Council”) to order at 11:00 a.m.

Housekeeping

Membership

Chair Phillips introduced James Henly, General Counsel for the Metropolitan Transit Authority, to the Council as the representative of the public authorities.

Review and Acceptance of Minutes

Chair Phillips asked if there were any changes or comments to the March 11, 2010, Council meeting minutes. No changes or comments were offered and Chair Phillips asked for approval to accept the March 11, 2010, minutes. Gerard Minot-Scheuermann made a motion to accept the minutes and Kevin King seconded. All approved.

Old Business

Report- Outreach and Training

Chair Phillips advised that Howard Zwickel, Deputy Commissioner and Counsel for the New York State Office of General Services (“OGS”) discussed the changes made to State Finance Law §§139-j and 139-k by Chapter 4 of the Laws of 2010 during a presentation at the New York State Purchasing Forum. The Forum is presented by the Office of the State Comptroller (“OSC”) and OGS and provides training to over 1000 purchasing officers at the state and local level. In addition, Chair Phillips stated that she also discussed the Chapter 4 amendments at the seminar: *2010 Doing IT Business with New York State and New York City Government*, sponsored by the New York State Forum, OGS and OSC. She advised that the enactment of the Chapter 4 amendments provided an opportunity for additional training and indicated that if anyone had any training suggestions they should contact her.

Chair Phillips stated that as a follow-up to the Inspector General report discussed during the last meeting, the CIO/OFT made a determination of non-responsibility against Ajilon Consulting. She indicated that the determination was referred to OGS and was posted on the Council’s website.

Report-Legislative Update

Chair Phillips advised that the two carryover bills, one containing the Council's legislative proposals and the other extending the sunset of State Finance Law §§ 139-j and 139-k, were superseded by Chapter 4 of the Laws of 2010, and therefore, no additional action was taken on these bills. She stated that there also had been no action taken on Governor Paterson's Article 7 legislative proposal providing for the elimination of several entities, including the Council. She indicated that if there is any movement on this proposal she would advise the Council members.

New Business

Revised Frequently Asked Questions

Chair Phillips advised that as a result of the enactment of Chapter 4 of the Laws of 2010, revisions to the Council's Frequently Asked Questions were necessary. She stated that some of the changes are minor, merely updating previous information. Chair Phillips indicated that the Council members were provided with a draft of the revisions and that she would be going through the draft question by question while changes were made to the document in real time by Indra Watson, Legal Assistant for OGS Legal Services. A discussion ensued regarding each of the revised Frequently Asked Questions. Some of the questions pertaining to what constitutes a "public announcement" were tabled so that OGS could make revisions in accordance with the Council's comments. The Council members discussed the distinction between when a governmental procurement begins and when the restricted period begins and Chair Phillips stated that OGS will revise these questions to incorporate those discussions.

Mr. Minot-Scheuermann made a motion providing OGS with the ability to edit the Frequently Asked Questions as discussed during the meeting and make revisions to the questions pertaining to the issue of public announcement. Thomas Perreault seconded the motion and all approved. Elisa Velazquez made a motion providing OGS with the authority to make any additional non-substantive changes, including those which mirror the Law, necessary to the revised Frequently Asked Questions and post those revised questions on the Council's website. Mr. Minot-Scheuermann seconded the motion and all approved.

Chair Phillips advised that the Council was asked by the CIO/OFT to provide guidance on two issues pertaining to the Chapter 4 amendments. The first is what is the effect of the amendments to the definitions of "governmental procurement" in Legislative Law §1-c(p)(i) and State Finance Law §§139-j(1)(e)(i) and 139-k(e)(i) and the second is how does an agency determine whether it is performing an "oversight function" within the meaning of the amendments to State Finance Law §§139-j(1)(h) and 139-k(1)(h) and 139-j(9). She stated that the Council members would be provided with the CIO/OFT letter prior to the next meeting and OGS would work on draft responses for discussion at the next meeting.

Discussion Items

Open Council Discussion

Chair Phillips asked if there was anything to consider and no issues were raised.

Chair Phillips advised that the next meeting will be held on Thursday, September 16, 2010, at 11:00 a.m. in Meeting Room 5.

Ms. Velazquez made a motion to adjourn and Michael Nevins seconded. The meeting was adjourned at 12:37 p.m.

Attachments

Voting Record Lists (3)

In Attendance

Michael Nevins

Anne Phillips

Kevin King

Thomas Perreault

Gerard Minot-Scheuermann

Ronald Younkins

S. John Campanie

Elisa Velazquez

James Henly

Richard Jacobson (arrived at 11:04 a.m.)

ADVISORY COUNCIL ON PROCUREMENT LOBBYING

VOTING RECORD LIST

DATE: June 14, 2010

MOTION/RESOLUTION: Motion to approve minutes from the March 11, 2010 Council meeting.

MEMBER NAME	APPOINTING AUTHORITY	AYE	NO	ABSTAIN	ABSENT
Campanie, S. John, Madison County Attorney	Governor, Representing Local Governments	X			
Henly, James, General Counsel, Metropolitan Transportation Authority	Governor representing Public Authorities	X			
*Jacobson, Richard P.,	Temporary President of the Senate				X
King, Kevin, Supervising Attorney Office of the State Comptroller	State Comptroller	X			
Minot-Scheuermann, Gerard, Division of the Budget	Director of the Division of the Budget	X			
Nevins, Michael J., Senior Vice President, JP Morgan Chase	Governor, Representing the Contracting Community	X			
Perreault, Thomas D., First Assistant Counsel, Dept. of Transportation	Commissioner of Transportation	X			
Phillips, Anne G., (Chair), Associate Counsel, Office of General Services	Commissioner of General Services	X			
Velazquez, Elisa, General Counsel, NYC Mayor's Office of Contract Services	Mayor of the City of New York	X			
Younkins, Ronald P., Chief of Operations Office of Court Administration	Chief Judge of the Court of Appeals	X			
Vacant	Speaker of the Assembly				

TOTALS:

AYES: 9

NOES: 0

ABSTENTIONS: 0

ABSENCES: 1

* Arrived late, not present for this vote.

ADVISORY COUNCIL ON PROCUREMENT LOBBYING

VOTING RECORD LIST

DATE: June 14, 2010

MOTION/RESOLUTION: Motion providing OGS with the ability to edit the Frequently Asked Questions as discussed during the meeting and make revisions to the questions pertaining to the issue of public announcement

MEMBER NAME	APPOINTING AUTHORITY	AYE	NO	ABSTAIN	ABSENT
Campanie, S. John, Madison County Attorney	Governor, Representing Local Governments	X			
Henly, James, General Counsel, Metropolitan Transportation Authority	Governor representing Public Authorities	X			
Jacobson, Richard P.,	Temporary President of the Senate	X			
King, Kevin, Supervising Attorney Office of the State Comptroller	State Comptroller	X			
Minot-Scheuermann, Gerard, Division of the Budget	Director of the Division of the Budget	X			
Nevins, Michael J., Senior Vice President, JP Morgan Chase	Governor, Representing the Contracting Community	X			
Perreault, Thomas D., First Assistant Counsel, Dept. of Transportation	Commissioner of Transportation	X			
Phillips, Anne G., (Chair), Associate Counsel, Office of General Services	Commissioner of General Services	X			
Velazquez, Elisa, General Counsel, NYC Mayor's Office of Contract Services	Mayor of the City of New York	X			
Younkins, Ronald P., Chief of Operations Office of Court Administration	Chief Judge of the Court of Appeals	X			
Vacant	Speaker of the Assembly				

TOTALS:

AYES: 10

NOES: 0

ABSTENTIONS: 0

ABSENCES: 0

ADVISORY COUNCIL ON PROCUREMENT LOBBYING

VOTING RECORD LIST

DATE: June 14, 2010

MOTION/RESOLUTION: Motion providing OGS with the authority to make any additional non-substantive changes necessary, including those which mirror the Law, to the revised Frequently Asked Questions and post those revised questions on the Council's website.

MEMBER NAME	APPOINTING AUTHORITY	AYE	NO	ABSTAIN	ABSENT
Campanie, S. John, Madison County Attorney	Governor, Representing Local Governments	X			
Henly, James, General Counsel, Metropolitan Transportation Authority	Governor representing Public Authorities	X			
Jacobson, Richard P.,	Temporary President of the Senate	X			
King, Kevin, Supervising Attorney Office of the State Comptroller	State Comptroller	X			
Minot-Scheuermann, Gerard, Division of the Budget	Director of the Division of the Budget	X			
Nevins, Michael J., Senior Vice President, JP Morgan Chase	Governor, Representing the Contracting Community	X			
Perreault, Thomas D., First Assistant Counsel, Dept. of Transportation	Commissioner of Transportation	X			
Phillips, Anne G., (Chair), Associate Counsel, Office of General Services	Commissioner of General Services	X			
Velazquez, Elisa, General Counsel, NYC Mayor's Office of Contract Services	Mayor of the City of New York	X			
Younkins, Ronald P., Chief of Operations Office of Court Administration	Chief Judge of the Court of Appeals	X			
Vacant	Speaker of the Assembly				

TOTALS:

AYES: 10

NOES: 0

ABSTENTIONS: 0

ABSENCES: 0