

**ALASKA STATE LEGISLATURE
LEGISLATIVE BUDGET AND AUDIT COMMITTEE**

January 29, 2013

8:01 a.m.

MEMBERS PRESENT

Senator Anna Fairclough, Chair
Senator Kevin Meyer
Senator Click Bishop
Senator Cathy Giessel
Senator Donald Olson
Senator Mike Dunleavy (alternate)

Representative Mike Hawker, Vice Chair
Representative Alan Austerman
Representative Bob Herron
Representative Andrew Josephson

MEMBERS ABSENT

Representative Kurt Olson
Representative Scott Kawasaki (alternate)
Representative Bill Stoltze (alternate)

COMMITTEE CALENDAR

APPROVAL OF MINUTES
LEGISLATIVE AFFAIRS INDEPENDENT AUDIT
LEGISLATIVE BUDGET AND AUDIT COMMITTEE CONTRACTS

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

KRISTIN CURTIS
Legislative Auditor
Legislative Audit Division
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information on the independent audit.

ACTION NARRATIVE

[8:01:19 AM](#)

CHAIR ANNA FAIRCLOUGH called the Legislative Budget and Audit Committee meeting to order at 8:01 a.m. Representatives Austerman, Herron, Josephson, and Hawker, and Senators Fairclough, Meyer, Bishop, Giessel, Olson, and Dunleavy (alternate) were present at the call to order.

Approval of Minutes

[8:02:12 AM](#)

CHAIR FAIRCLOUGH announced that the first order of business would be approval of the minutes.

REPRESENTATIVE HAWKER made a motion to approve the minutes of January 14, 2013. There being no objection, the minutes from the meeting of January 14, 2013 were approved.

REPRESENTATIVE HAWKER made a motion to approve the minutes of January 18, 2013. There being no objection, the minutes from the meeting of January 18, 2013 were approved.

Legislative Affairs Independent Audit

[8:02:41 AM](#)

CHAIR FAIRCLOUGH announced that the next order of business would be an update on the Legislative Affairs Independent Audit.

[8:02:55 AM](#)

KRISTIN CURTIS, Legislative Auditor, Legislative Audit Division, Alaska State Legislature, introduced the independent audit of the Legislative Affairs Agency financial schedule for the fiscal year ending June 30, 2012 [Included in members' packets]. She pointed out that this independent auditor's report included an unqualified opinion and the financial schedules, with a section of the financial schedule designated to the Legislative Budget and Audit Committee. She explained that the unqualified opinion presented the financial schedules fairly and in accordance with generally accepted accounting principles. She directed attention to the accompanying letter, which was directed to "those charged with governance." She confirmed that this was a standard, required auditing procedure, and that it was

specifically required for the bullet points in the letter to be addressed. She noted that no items were unusual or of concern.

Legislative Budget and Audit Committee Contracts

[8:04:26 AM](#)

CHAIR FAIRCLOUGH announced that the next order of business would be a review of the Legislative Budget and Audit Committee contracts [Included in members' packets]. She directed attention to the Legislative Budget and Audit Committee contracts, and asked if there were any questions on the two contracts other than the contract with Mr. Roger Marks. Hearing none, she then called attention to the contract with Mr. Roger Marks. She reviewed the discussion with Senator Meyer from the previous Legislative Budget and Audit Committee meeting, January 18, 2013, in which he had requested continuance of this contract. She informed the committee that Legislative Legal Counsel had advised entrance into a new contract for better clarity, rather than extension of the existing contract. She relayed that Mr. Marks had agreed to continue at the same hourly rate as the previous contract. She asked if there was any discussion.

[8:05:35 AM](#)

SENATOR MEYER commented on Mr. Marks' background, noting that he was a petroleum economist, analyzing the oil and gas production tax system, with the Department of Revenue for more than 25 years. He observed that Mr. Marks lived in Alaska, and was not only familiar with the state and its current tax regime, but had experience with international oil tax studies, as well. He opined that Mr. Marks would be a good balance to any other international consultants on contract.

[8:07:25 AM](#)

CHAIR FAIRCLOUGH questioned whether this contract should be submitted to a competitive bid process, or was there value to sole source this contract.

[8:07:40 AM](#)

REPRESENTATIVE HAWKER asked Senator Meyer about his intent for the current contract with PFC Energy, as they were "an international firm with very deep resources."

8:08:17 AM

SENATOR MEYER indicated that the Senate Finance Committee and the Senate Resources Standing Committee would like to utilize both groups. He acknowledged that PFC Energy was an excellent consulting group with international experience and "great analytical modeling," although they were not quite as familiar with Alaska's oil fields. He noted that, as Mr. Marks was a petroleum economist, he would offer a better economic aspect from the local perspective.

8:09:44 AM

REPRESENTATIVE HAWKER expressed his concern for any characterization that PFC Energy was not responsive, knowledgeable, or competent. He endorsed the performance and availability of PFC Energy.

8:10:56 AM

SENATOR GIESSEL offered her belief that each consultant brought "different strengths to the table." She affirmed that the Senate Resources Standing Committee intended to consult with PFC Energy regarding international capital movement and competitiveness and with Mr. Marks for his local knowledge of specific fields and resources.

8:11:53 AM

REPRESENTATIVE HERRON, directing his remarks to Senator Meyer, pointed out that Mr. Marks was sometimes in disagreement with all international oil and gas policy. He asked if these viewpoints were to be used for comparison in decision making.

8:12:39 AM

SENATOR MEYER expressed his agreement with an analysis of differing viewpoints. He observed that although he was unsure for the amount of work to be directed to Mr. Marks, he opined that "it's just good to have another tool in the tool box." He confirmed that Mr. Marks would offer "a petroleum economic perspective of the oil tax bill." He expressed anticipation that the analytical modeling would be performed by PFC Energy.

8:13:28 AM

REPRESENTATIVE JOSEPHSON asked for a clarification to the process between choice of consultants by each committee and a motion to offer a contract to Mr. Marks.

8:13:57 AM

CHAIR FAIRCLOUGH established that there would be an option for the committee to offer a sole source contract for a specified amount with Mr. Marks. She welcomed discussion for the amount of that contract. She distinguished this from the separate issue for procedural access to these resource contracts, reiterating that the priority for access would be extended to a committee chair with the bill in their possession. She specified that the current contract alternatives were PFC Energy and Roger Marks.

8:14:52 AM

REPRESENTATIVE JOSEPHSON reported that while there was extensive information on PFC Energy in the file, there was a dearth of information on Roger Marks. He opined that this lack of information made his decision a difficult process. He expressed his desire for the most objective person with the least interest in advocacy. He welcomed any suggestions from the committee members.

8:15:42 AM

CHAIR FAIRCLOUGH stated:

Under Section 040(a)(1) of the Legislative Procurement Procedures, I have determined that it's not practical to solicit oil and gas consultant services using a competitive method bid to the Committee's established working relationship with Roger Marks. As a consultant, Mr. Marks is uniquely qualified given his background knowledge, his analytical experience on oil and gas fiscal regimes of the State of Alaska. Additionally, Mr. Marks has a distinctive background and professional experience with Alaska's Tax Statutes. Mr. Marks has been working with the Committee on these issues, including legislation being considered by the Legislature. Entering into this contract with Mr. Marks will allow for the continuity of his work and existing evaluations and analysis. Experience has shown Mr. Marks to be accessible and available for the expedient response to work

requirements, which has proven to be very beneficial during the legislative deliberation process.

It is in the agency and the Legislative Budget and Audit Committee's best interest to contract with Mr. Roger Marks to provide background knowledge and analytical resource in the analysis of proposed changes to the oil and gas fiscal regime of the State of Alaska, due to his unique qualifications and extensive experience in working with the Committees on these matters.

[8:17:08 AM](#)

REPRESENTATIVE HAWKER moved that the Committee authorize the chair to enter into a sole source contract in the amount not to exceed \$250,000 with Roger Marks for professional analysis and expert economic advice with respect to natural gas fiscal designs and the evaluation of development scenarios.

[8:17:35 AM](#)

SENATOR MEYER objected, indicating that Senator Dunleavy may have had an earlier question.

[8:17:48 AM](#)

SENATOR DUNLEAVY clarified that his question had been answered.

[8:17:56 AM](#)

REPRESENTATIVE HAWKER asked if it was intended for the motion to be limited to natural gas fiscal systems and development scenarios.

[8:18:17 AM](#)

CHAIR FAIRCLOUGH replied that it was not intended to be limited to natural gas.

[8:18:22 AM](#)

REPRESENTATIVE HAWKER requested to amend his motion to include "oil and gas fiscal system designs and the evaluation of development scenarios."

CHAIR FAIRCLOUGH asked if there were any questions pertaining to this amended motion.

8:19:09 AM

REPRESENTATIVE HERRON asked to clarify that the contract was through January 31, 2015.

CHAIR FAIRCLOUGH confirmed this.

8:19:20 AM

REPRESENTATIVE AUSTERMAN, pointing out that the proposed contract was for \$250,000 whereas the previous contract had been for \$150,000, asked to clarify that the previous hourly rate would be maintained.

8:19:40 AM

CHAIR FAIRCLOUGH assessed that she was unsure for the amount of time to be requested of Mr. Marks, given the two significant policy proposals of oil and gas taxation and a pipeline. She offered to amend the contract, if requested, in order to maintain access to the services of Mr. Marks.

8:20:18 AM

REPRESENTATIVE AUSTERMAN asked to clarify that the hourly rate would remain the same as the previous contract.

CHAIR FAIRCLOUGH replied that Mr. Marks had agreed to the same previous rate of \$140 per hour. She commented that there was not a new expense, but that the frequency of request for his time was not known.

8:20:50 AM

REPRESENTATIVE HAWKER offered an historic context to the existing contract with Mr. Marks. He pointed out that the current contract was the residual from a contract negotiated approximately six years prior during a Request for Proposal (RFP) process regarding the Alaska Gasline Inducement Act and the design and development scenario of natural gas fiscal systems. He reported that the Legislative Budget and Audit Committee had selected two contractors. He detailed that David Wood and Associates, located in the United Kingdom, was selected for "a very detailed, very expensive modeling process." He

shared that, as it was also desired to have a more local person, a second contract was offered to Mr. Marks and Mr. Logsdon. Subsequently, as Mr. Logsdon left Alaska, the contract was amended to only include Mr. Marks. He opined that the balance on the current contract reflected a contract for services that varied from the current proposal. He offered his belief that the current contract should only be viewed as a benchmark, as it was not similar to the proposed contract.

[8:22:51 AM](#)

REPRESENTATIVE HERRON described his experience with Mr. Marks, sharing that Mr. Marks brought "a different lens than a lot of these experts that we do hire." He opined that Mr. Marks could be, at times, "very good, very enlightening, and then on the balance side, at times he can be annoying, but it does bring, it does raise your level of inquiry with him." He declared his support for a contract with Mr. Marks.

[8:23:38 AM](#)

CHAIR FAIRCLOUGH asked if there were any further comments.

[8:23:45 AM](#)

SENATOR MEYER removed his objection. There being no further objection, the Legislative Budget and Audit Committee chair was authorized to enter into a sole source contract with Roger Marks.

[8:24:05 AM](#)

ADJOURNMENT

There being no further business before the committee, the Legislative Budget and Audit Committee meeting was adjourned at 8:24 a.m.