

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

March 28, 2014

6:02 p.m.

MEMBERS PRESENT

Senator Anna Fairclough, Chair
Senator Kevin Meyer
Senator Click Bishop
Senator Cathy Giessel
Senator Donald Olson

Representative Alan Austerman
Representative Bob Herron
Representative Andy Josephson

MEMBERS ABSENT

Representative Mike Hawker, Vice Chair
Representative Kurt Olson
Representative Scott Kawasaki (alternate)
Representative Bill Stoltze (alternate)

Senator Mike Dunleavy (alternate)

COMMITTEE CALENDAR

APPROVAL OF MINUTES
EXECUTIVE SESSION
OTHER COMMITTEE BUSINESS

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

LAURA PIERRE, Staff
Senator Anna Fairclough
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified during discussion regarding the increase to the contract for Manley & Brautigam.

ACTION NARRATIVE

[6:02:11 PM](#)

CHAIR ANNA FAIRCLOUGH called the Legislative Budget and Audit Committee meeting to order at 6:02 p.m. Senators Fairclough, Olson, Giessel, Bishop, and Meyer, and Representatives Austerman, Herron, and Josephson were present at the call to order.

Approval of Minutes

[6:03:03 PM](#)

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

SENATOR MEYER made a motion to approve the minutes of February 25, 2014. There being no objection, the minutes from the meeting of February 25, 2014 were approved.

Executive Session

[6:03:18 PM](#)

CHAIR FAIRCLOUGH announced that the committee would move into Executive Session to discuss confidential audit reports.

[6:03:34 PM](#)

SENATOR MEYER made a motion to move to executive session for the purpose of discussing confidential audit reports under AS 24.20.301 and contracts for legal assistance. There being no objection, the committee went into executive session at 6:04 p.m.

[6:24:10 PM](#)

CHAIR FAIRCLOUGH brought the committee back to order at 6:24 p.m. Senators Fairclough, Olson, Giessel, Bishop, and Meyer, and Representatives Josephson, Herron, and Austerman were present at the call to order.

[6:24:26 PM](#)

SENATOR MEYER made a motion for the final audit for the Statewide Single Audit for the Fiscal Year ended June 30, 2013

to be released to the public. There being no objection, it was so ordered.

Other Committee Business

[6:24:49 PM](#)

CHAIR FAIRCLOUGH announced that the next order of business would be a request for an increase to the contract with the law firm of Manley & Brautigam.

[6:25:04 PM](#)

LAURA PIERRE, Staff, Senator Anna Fairclough, Alaska State Legislature, explained that this was a request for an increase to a contract authorized on March 6, 2014 by Chair Fairclough of the Legislative Budget and Audit Committee to the law firm for legal counsel as it related to the Alaska liquid natural gas (LNG) projects which the Alaska State Legislature was considering, specifically mentioned in SB 138 and HB 277. She explained that the original contract had been for \$35,000, as permitted for authorization by the Chair without committee approval under the procurement rules. She reported that her discussion earlier that morning with the law firm had revealed that its initial analysis and consideration of the legislation and documents had almost exhausted the original contract funding. As staff for the committee chair, she asked for an increase to the contract in order to provide further legal analysis of the legislation.

REPRESENTATIVE JOSEPHSON stated his support for the hiring of the law firm, but he questioned how the contract had been determined as necessary. He asked why the Senate had not been "privy to some of that analysis" and he requested more information about the process.

MS. PIERRE explained that, as Chair Fairclough was a member of various committees which listened to the aforementioned legislation, there had been discussion regarding the need of legal counsel for particular issues relating to anti-trust and federal corporate tax. She relayed that Legislative Legal Services had responded that it did not have legal expertise in these areas, with a suggestion to pursue outside legal counsel. She shared that a request for quotes had been issued in late February and only one law firm had responded. As that law firm had appeared qualified for these issues, a contract had been offered.

REPRESENTATIVE HERRON offered his belief that the correct choice had been made, and then asked why the Legislative Budget and Audit Committee had not been notified.

MS. PIERRE explained that Chair Fairclough had sent an announcement to each legislative office about a week and a half earlier, notifying them that reports had been posted on the Legislative Budget and Audit Committee website and encouraging each office to monitor the website for updated reports. This notification had also outlined specific reports from Roger Marks and Mr. Harper, with notice that additional reports from the law firm would be forthcoming. She reported that she had received the reports from the law firm during the previous weekend, had reviewed them, requested a revision, and then posted them on the website on the previous Tuesday. She acknowledged that a subsequent announcement stating that the reports were now posted had not been sent.

REPRESENTATIVE HERRON requested that, in the future, Legislative Budget and Audit Committee members be notified when an important announcement was released.

SENATOR MEYER asked why there had only been one response to the initial request for a quote.

MS. PIERRE explained that the initial request had been sent to four law firms, and only one firm had responded. She relayed that an earlier request for a different quote had been sent to six organizations, and there had been three responses. She reported that this request had included that the firm be available to fly to Juneau to meet with legislators and present to committees during the legislative session, and she opined that the other law firms may have had too large an existing workload.

SENATOR MEYER asked how the request process had been narrowed to only include four law firms.

MS. PIERRE, in response to Senator Meyer, said that they had consulted for recommendations to law firms throughout the United States with this expertise. She said that the firm they had contracted with was based in Anchorage.

[6:31:35 PM](#)

CHAIR FAIRCLOUGH shared that they had asked Legislative Legal Services and the Legislative Auditor for advice and for the structure of the request proposal.

MS. PIERRE expressed her agreement that she had worked with Kris Curtis, Legislative Auditor, to formulate the request for quotes.

REPRESENTATIVE AUSTERMAN requested that this be placed on his agenda at an earlier time, as he was a bit nervous about spending \$40,000 without advanced warning. He acknowledged the authority of the chair to "ask questions and hire attorneys to do what question answering you want to do."

CHAIR FAIRCLOUGH expressed her agreement, and pointed out that she had been notified just prior to this meeting that the limit of the contract had been reached.

MS. PIERRE reiterated that she had also just found out today, and, in response to Representative Austerman, said that a contract extension had been scheduled on the committee calendar in order to not exceed the contract amount. As the committee was meeting today and there was not another committee meeting currently scheduled during the remainder of the legislative session, it seemed to be the proper time for discussion.

REPRESENTATIVE JOSEPHSON asked why the Attorney General's office would not take this role, although he realized that committees would be asking all the time.

CHAIR FAIRCLOUGH explained that her concern was two-fold, as, along with the anti-trust issues, the Senate was discussing a restructure for the governor's proposed idea. As the Senate had considered a different structure, she opined that it was necessary to move quickly, and that the law firm needed appropriate time to draft the document. She relayed that, as questions for the taxing issue had also arisen, it was necessary "to provide the legislature... the tools to be able to go forward as this discussion continued at the house." She noted that the law firm had not been able to get the report completed in time for the Senate.

MS. PIERRE relayed that she had also approached the Department of Law and received the same response for not being able to provide "that sort of expertise to us."

REPRESENTATIVE AUSTERMAN asked to review a hard copy of the contract and the reports. He reiterated his concern for spending \$40,000 without any review.

MS. PIERRE offered him a copy of the contract for his perusal, although she noted that she did not have a copy of the report. She pointed out that the contract had been on-line since it was signed on March 6, and that this had been announced in an e-mail to all the members from Chair Fairclough at that time.

CHAIR FAIRCLOUGH acknowledged her surprise for the contract extension and stated that she did not like to "handle business on the spur of the moment, either." She posed that the proposed legislation necessitated that reports be presented to committees.

MS. PIERRE, in response to Chair Fairclough, said that the law firm would make a presentation to the House Resources Standing Committee (HRES) during the following week.

CHAIR FAIRCLOUGH explained that preparation for this presentation had triggered the necessity to exceed the original contract amount, hence the immediacy of this current request to the committee. She offered to postpone presentation of the report to HRES if the Legislative Budget and Audit Committee wanted more time to review that contract and approve this expenditure.

REPRESENTATIVE AUSTERMAN expressed his comfort to "put it back on us, that's fine."

CHAIR FAIRCLOUGH replied that she was "not trying to put it on anyone." She reiterated that she had only been made aware of the issue in the last hour and a half.

[6:38:17 PM](#)

SENATOR GIESSEL relayed that questions about anti-trust, tax sheltering, and taxation had been raised during discussion for the Senate version of the proposed legislation. She reported that the committee had trusted the assertion by the administration that this issue "had been thoroughly vetted during the negotiations," although the committee had never verified this. She applauded that there was an independent consultant to definitively answer these questions for the Alaska State Legislature.

[6:39:08 PM](#)

The committee took an at-ease from 6:39 p.m. to 6:41 p.m.

[6:41:25 PM](#)

CHAIR FAIRCLOUGH brought the committee back to order at 6:41 p.m.

MS. PIERRE added that the money would only be spent if the Chair requested information.

[6:41:56 PM](#)

SENATOR MEYER made a motion to authorize the chair, as procurement officer, to amend the contract amount with Manley & Brautigam to an amount not to exceed \$75,000 and approve the exemption from solicitation requirements under AS 020(1)(3). There being no objection, it was so ordered.

[6:42:51 PM](#)

ADJOURNMENT

There being no further business before the committee, the Legislative Budget and Audit Committee meeting was adjourned at 6:42 p.m.