

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

Anchorage, Alaska
December 11, 2013
9:06 a.m.

MEMBERS PRESENT

Senator Anna Fairclough, Chair
Senator Kevin Meyer
Senator Click Bishop
Senator Cathy Giessel
Senator Donald Olson
Representative Alan Austerman
Representative Kurt Olson (via teleconference)
Representative Andy Josephson

MEMBERS ABSENT

Representative Mike Hawker, Vice Chair
Representative Bob Herron
Representative Scott Kawasaki (alternate)
Representative Bill Stoltze (alternate)
Senator Mike Dunleavy (alternate)

COMMITTEE CALENDAR

APPROVAL OF MINUTES
EXECUTIVE SESSION - AUDITS
OTHER COMMITTEE BUSINESS

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

KRIS CURTIS, Legislative Auditor
Legislative Audit Division
Legislative Agencies and Offices
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the Legislative Audit Division
Peer Review Report for 2013.

LAURA PIERRE, Staff

Senator Anna Fairclough
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As staff for the Legislative Budget and Audit Committee, provided information that was requested by Chair Fairclough pertaining to the professional services contract with Janak Mayer and Nikos Tsafos.

ACTION NARRATIVE

[9:06:30 AM](#)

CHAIR ANNA FAIRCLOUGH called the Legislative Budget and Audit Committee meeting to order at 9:06 a.m. Senators Meyer, Bishop, Giessel, Olson, and Fairclough, and Representatives Austerman, Olson (via teleconference), and Josephson were present at the call to order.

Approval of Minutes

[9:07:23 AM](#)

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

SENATOR MEYER made a motion to approve the minutes of the Legislative Budget and Audit meeting of November 25, 2013, as presented.

[9:08:17 AM](#)

SENATOR GIESSEL recalled she left that meeting early and expressed her understanding that the contract under discussion is to be offered. She asked whether there was further action to be taken "in terms of consultants."

[9:08:43 AM](#)

CHAIR FAIRCLOUGH said not at this time. There being no further discussion, the minutes from the meeting of November 23, 2013, were approved.

Executive Session - Audits

[9:08:56 AM](#)

CHAIR FAIRCLOUGH announced that the committee would next move into executive session.

SENATOR MEYER made a motion that the committee under Uniform Rule 22, go into executive session for the purpose of discussing confidential audit reports under AS 24.20.301. There being no objection, the committee went into executive session at 9:09 a.m.

CHAIR FAIRCLOUGH brought the meeting back to order at 10:15 a.m. Senators Olson, Bishop, Giessel, and Fairclough, and Representatives Austerman, Josephson, and Olson (via teleconference) were present at the call back to order.

[10:15:46 AM](#)

SENATOR GIESSEL made a motion for the following final audits to be released to the public: Department of Administration, Alaska Land Mobile Radio Communications System; and Department of Natural Resources, Alaska Seismic Hazards Safety Commission. There being no objection, it was so ordered.

Other Committee Business

[10:16:10 AM](#)

CHAIR FAIRCLOUGH announced that the next order of business would be an update from the committee's auditor on her peer review.

[10:16:25 AM](#)

KRIS CURTIS, Legislative Auditor, Legislative Audit Division, Legislative Agencies and Offices, Alaska State Legislature, presented the division's peer review report for 2013. She informed the committee a peer review report is issued by members of other states' audit organizations, and coordinated through the National State Auditors Association. The review covers the system of quality control in place at an audit agency to ensure that audits are conducted, and reports are issued, in accordance with professional standards. A peer review is required by audit standards every three years, and in September the Legislative Audit Division received the highest rating possible. The peer review opinions are historically posted on the division's website.

[10:17:26 AM](#)

CHAIR FAIRCLOUGH congratulated the division on "the highest success possible."

[10:17:42 AM](#)

LAURA PIERRE, Staff, Senator Anna Fairclough, Alaska State Legislature, speaking as staff to the Legislative Budget and Audit Committee, reminded the committee that at its last meeting the chair was authorized to negotiate a professional services contract with Janak Mayer and Nikos Tsafos, consultants on oil and gas issues; however, there was discussion on how to address the additional expenses of their housing, car rental, and travel during the course of the legislative session. At the request of Chair Fairclough, Ms. Pierre estimated that the additional expenses of leasing a house to share would add long-term per diem, which is \$33 per day, compared to short-term per diem, which is \$140 per day, to the contract. Travel is estimated at \$2,100 for transportation for both consultants from Washington D. C., a lease to secure joint housing will be \$3,000 per month, and a rental car is about \$1,200 per month for one car. In addition, heating fuel for the house is estimated at \$1,500. The total estimate for all of the expenses is \$26,000 for both, for the 90-day session.

[10:21:05 AM](#)

CHAIR FAIRCLOUGH opined these are very reasonable expenses compared with housing in a hotel room at \$150 per day.

[10:21:24 AM](#)

REPRESENTATIVE AUSTERMAN asked whether it is a normal standard to pay a flat fee for work plus expenses, or if expenses are part of a negotiated contract.

[10:21:47 AM](#)

CHAIR FAIRCLOUGH recalled in the last contract with PFC Energy, "We cover everything when they're here." The expenses are part of their day rate of \$2,800 - up to \$7,500 - per day.

[10:22:14 AM](#)

MS. PIERRE further explained that past contracts with the Legislative Budget and Audit committee have not drawn a flat amount for a contract; for example, PFC Energy's contract was \$1.7 million dollars as billed on a daily rate, which depended

on who was working on the contract. At that time, Janak Mayer's rate was \$2,400 per day for time, and did not include housing, travel, car, or per diem. She opined a similar day rate would cost "well beyond, we feel, \$13,000."

[10:23:34 AM](#)

CHAIR FAIRCLOUGH, in response to Representative Austerman, noted the contract being negotiated is for a \$250,000 flat fee per contractor, plus travel, housing, and per diem expenses.

[10:23:53 AM](#)

REPRESENTATIVE JOSEPHSON asked whether the contract has been signed.

[10:24:10 AM](#)

CHAIR FAIRCLOUGH said no, negotiations are underway.

[10:24:15 AM](#)

MS. PIERRE added that comments from the committee will be taken into consideration, and the contract contains certain benchmarks that the contractors must meet to receive payment.

[10:24:33 AM](#)

REPRESENTATIVE JOSEPHSON observed it is unclear what will be happening during the next session, and expressed his concern about state spending. Clearly, only issues such as a large diameter gas line and decoupling will require the consultants to work "15 hours a day."

[10:25:18 AM](#)

CHAIR FAIRCLOUGH advised that another issue of concern related to the consultants' contract is whether the state should invest, and assume risk, so that a gas line goes forward. She said she is discussing with the consultants whether to add that scope of work, because the governor has said Alaska may want to take an ownership interest. If so, the committee wants to ensure that legislators and Alaskans know the risks and rewards possible from investments "along that chain of opportunity." In response to Representative Austerman, she said \$500,000 plus expenses was the limit put on the contract.

[10:26:28 AM](#)

REPRESENTATIVE AUSTERMAN ascertained the contract could pay out \$500,000 plus living expenses.

CHAIR FAIRCLOUGH said correct.

REPRESENTATIVE AUSTERMAN said, "I have a problem with that but that's me being frugal I guess."

[10:26:34 AM](#)

SENATOR GIESSEL referred to the minutes of the November 25th meeting and pointed out that the contract under discussion will run through January 31, 2015, thus work could continue through the fall of 2014.

[10:26:52 AM](#)

CHAIR FAIRCLOUGH explained that the scope of work for the flat fee is \$250,000. If the committee wanted to utilize the consultants in the fall, the committee would establish a day rate. In response to Representative Austerman's concerns, she said, "this is low compared to what we paid PFC Energy."

[10:27:29 AM](#)

SENATOR BISHOP clarified that if the committee concurs, the contract locks the consultants in for a year for \$500,000, but for work after 90 days, a daily rate must be renegotiated.

[10:27:56 AM](#)

CHAIR FAIRCLOUGH said that is correct.

[10:28:00 AM](#)

MS. PIERRE advised the consultants have agreed to enter into a contract for an entire year; however, the amount approved by the committee is just for the length of the upcoming 2014 legislative session. The intent is to negotiate and secure a daily rate in this contract for work beyond the session.

[10:28:39 AM](#)

SENATOR BISHOP cautioned about the possibility of a special session.

10:29:02 AM

MS. PIERRE, in response to Representative Austerman, confirmed that the \$500,000, plus \$13,000 in expenses for each consultant, is for the 90-day session; there could be a daily rate for work beyond that, or the committee could negotiate another flat fee.

10:29:10 AM

CHAIR FAIRCLOUGH advised the committee that the consultants are not getting paid at this time for work directed by the committee, such as pre-session work on models, contract liability issues, and confirming the legislature's ownership of the gas symposium information. Information provided by the consultants has been forwarded to Legislative Legal Services; in fact, the 90-day "clock already started ticking," and the consultants are engaged in the market, gathering the data in order to be prepared to fulfil their scope of work.

10:30:26 AM

MS. PIERRE added that the contract needs to run through January 31, [2015] so the consultants are secured from conflicts of interest.

10:31:09 AM

CHAIR FAIRCLOUGH, further addressing the conflict of interest question, said she has asked the consultants to review a possible conflict of interest that was raised at the previous meeting. Furthermore, the intent is to negotiate for the ability to extend the contract multi-year, if desired by the next committee chair.

10:31:35 AM

REPRESENTATIVE AUSTERMAN observed that a full-year contract does not limit the consultants from contracting for other work that is not in conflict with the state.

10:32:03 AM

MS. PIERRE said that is correct.

10:32:08 AM

CHAIR FAIRCLOUGH agreed with the need to look carefully at every dollar the committee spends and invests on behalf of Alaskans.

[10:32:32 AM](#)

SENATOR GIESSEL made a motion that the committee, in addition to the approved professional services contract of \$500,000 from the November 25, 2013 meeting, also approves \$26,000 for session expenses to be split between the two consultants. There being no objection, it was so ordered.

[10:33:06 AM](#)

CHAIR FAIRCLOUGH then expressed her interest in securing an actuary for use by the committee and legislature during the upcoming session. The governor has proposed transferring \$3 billion from the Constitutional Budget Reserve [CBR] to the Alaska Retirement Management [ARM] Board, and due to the importance of this subject, experts are needed to advise on health care costs and retirement. She offered to draft a Request for Proposal [RFP] for an actuary to work either on a flat fee, or a rate basis, as directed by the committee.

[10:34:35 AM](#)

SENATOR BISHOP concurred and asked that the scope of the RFP search is for "the best of the best on this type of monetary decision."

[10:34:56 AM](#)

SENATOR GIESSEL agreed.

[10:35:11 AM](#)

REPRESENTATIVE AUSTERMAN agreed.

[10:35:18 AM](#)

CHAIR FAIRCLOUGH asked Ms. Pierre, committee staff, to research the cost and to draft an RFP for an actuarial with expertise in health and in retirement pension funds. In fact, two experts may be needed to advise on the governor's proposal and on upcoming legislation. Suggestions for applicants are to be solicited from the Legislative Audit Division, although the work may be done internally.

[10:36:41 AM](#)

REPRESENTATIVE JOSEPHSON agreed with the need for an actuary; however, unlike the field of oil and gas, this work is also done by the Legislative Finance Division and engaging additional advisors may create redundancy.

[10:37:30 AM](#)

CHAIR FAIRCLOUGH said she spoke to David Teal, Director of Legislative Finance, on this subject and he suggested the legislature may want to bring on an actuary. Her understanding of the expertise of an actuary "is they know what's affecting the system and so they have a unique perspective on each question, on all the criteria that is moving the needle inside of that, that issue" Actuaries are a source for different perspectives and policy choices.

[10:38:11 AM](#)

REPRESENTATIVE JOSEPHSON, as an aside, noted that Michigan also has constitutional protection for public employees and the federal district judge there decided that federal bankruptcy law is supreme. Unlike Michigan, he said Alaska wants to honor its obligations, which are "vitaly important."

[10:38:57 AM](#)

REPRESENTATIVE AUSTERMAN stated the need for the committee to know the members' legal obligations as legislators, if there is a legal obligation to pay, and whether there is a deadline. He cautioned against using an arbitrary number set by the ARM Board. Some of these questions are constitutional issues and he was unsure of whether an actuary could help.

[10:40:01 AM](#)

CHAIR FAIRCLOUGH ascertained that the committee wants the expertise in order to address upcoming legislation. The role of the committee is to secure the best information possible by hiring contractors to ensure that Alaskans - and the legislature - have the best representation of an industry, so as to make the best policy choices. An actuary can talk specifically about the pension and the governor's proposal. She asked for the committee's support to allow the drafting of an RFP and solicited suggestions for whom to hire.

10:41:38 AM

REPRESENTATIVE OLSON, in response to Chair Fairclough, said he had no problem pursuing an actuary to address the retirement issue, but cautioned against hiring Mercer. He suggested putting high limits on the errors and omissions coverage.

10:42:44 AM

CHAIR FAIRCLOUGH reminded the committee the RFP process is open to proposals from all interested parties of the general public.

10:42:53 AM

REPRESENTATIVE OLSON recommended contacting Mike Barnhill.

10:43:17 AM

CHAIR FAIRCLOUGH asked for clarification on whether the committee also wished to search for expertise on health care services to address both issues may or may not come from one company. Hearing no further discussion, it was so ordered.

10:44:13 AM

ADJOURNMENT

There being no further business before the committee, the Legislative Budget and Audit Committee meeting was adjourned at 10:44 a.m.