

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

**October 8, 2010**

**MINUTES OF THE SPECIAL MEETING**

Members of the Authority present: John Hutchison representing the Lt. Governor's office, and Joe Latoof representing the Commissioner of the Department of Labor and Workforce Development.

Present via conference call: Al Koepp, Chairman; Steve Petrecca representing the State Treasurer, Richard Poliner representing the Commissioner of the Department of Banking and Insurance, Michele Sierkera representing the Commissioner of the Department of Environment Protection, Public Members Timothy Carden, Richard Tolson, Laurence Downes, Raymond Burke, First Alternate Public Member; and Kevin Brown, Third Alternate Public Member.

Absent: Joseph McNamara, Vice Chairman; Public Members, Steve Plofker, Marjorie Perry, Charles Sarlo, Elliot M. Kosoffsky, Second Alternate Public Member and Rodney Sadler, Non-Voting Member.

Also present: Caren Franzini, Chief Executive Officer of the Authority; Deputy Attorney Generals Ed Pillsbury and Bette Renaud, and guests.

Chairman Koepp called the meeting to order at 4p.m.

In accordance with the Open Public Meetings Act, Ms. Franzini announced that notice of this meeting has been sent to the *Star Ledger* and the *Trenton Times* at least 48 hours prior to the meeting, and that a meeting notice has been duly posted on the Secretary of State's bulletin board at the State House.

Ms. Franzini summarized the item before the board stating that this is a re-bid of 2010-RFQ/P-035 for which all bids were rejected. That RFQ/P was terminated by final action of the board. On April 12, the Authority issued its second Request for Qualifications and Proposal (RFQ/P) to provide ISP and VoIP services to the Authority (designated as 2010-RFQ/P-037).

Because of the closeness of the initial scores for DNS and PAETEC, Ms. Franzini stated that she determined that the evaluation committee should perform interviews and site visits for the top two (2) proposers, as allowed by the RFQ/P.

Based on the information obtained from proposals, interviews and site visits, the evaluation committee re-scored the three (3) evaluation criteria not related to price. Fee proposals were not discussed at interviews and accordingly, no changes were made to scores relative to price. The post-interview and site inspection scoring matrix showed that, taking into account price and other factors, PAETEC scored higher than DNS.

In September, upon the request of the EDA the State Office of Information Technology (OIT) conducted its review and made its report of findings to the evaluation committee and answered any questions that the evaluation committee members had. The OIT report concluded that both firms are capable of providing the ISP and VoIP services the Authority needs. After OIT provided its report and answered questions, the evaluation committee (consisting of only two members as discussed below) again re-scored both the DNS and PAETEC proposals. The evaluation committee's decision was to recommend PAETEC.

Subsequent to this, an OPRA investigation revealed emails suggesting the two Evaluation committee members may have bias towards PAETEC. The investigation found no evidence of bias, however, based on these findings by the Director of IPM and after conferring with the Attorney General's Office, Ms. Franzini concluded it is appropriate to recuse the two (2) evaluation committee members identified in the emails. Ms. Franzini also concluded, in order to eliminate any possible influence by the two (2) recused evaluation committee members, the contract award should be based on the original round of scoring (i.e. the May 20<sup>th</sup> scoring) that was performed before the evaluation committee gathered together for interviews and site visits. The final scoring of proposals uses only scoring by the two (2) remaining members.

Ms. Franzini noted that this recommendation for award to DNS is not the evaluation committee's recommendation. In order to maintain the highest level of integrity around the evaluation process in light of unusual circumstances, her final recommendation is based on the first round of scoring which is the only round of scoring where evaluation committee members worked completely independently and without possible influence by other members of the evaluation committee and the OIT report which concludes that DNS is capable of providing the VoIP services.

### **AUTHORITY MATTERS**

Approval was requested to execute a contract for Internet Service Provider (ISP/ Voice Over Internet Protocol (VoIP) services for data and voice services with Business Automation Technologies, Inc. – d/b/a Data Network Solutions for the following locations: (i) NJEDA Headquarters, Trenton; (ii) Waterfront Technology Center, Camden; (iii) NJEDA Satellite, Newark; (iv) Commercialization Centre for Innovative Technologies (1<sup>st</sup> site); and (v) Commercialization Centre for Innovative Technologies (2<sup>nd</sup> site).

**MOTION TO APPROVE: Mr. Carden    SECOND: Mr. Latoof    AYES: 11  
RESOLUTION ATTACHED AND MARKED EXHIBIT:1**

Chairman Koeppe stated that the Office of Information Technology provided a written report stating that both firms were capable and in his view, the ability to perform is paramount to the decision.

Mr. Carden stated that he appreciated Ms. Franzini's diligence and that the Audit Committee discussed and reviewed the matter and unanimously approved referring the CEO's recommendation to the full Board. He also recognized the time to review perceived conflicts and noted in this time of electronic communications, the agency is learning and advancing techniques and is vulnerable to perceptions of emails. He noted that there were two qualified bidders, one with a lower price and a higher score, DNS, and in the final review he was comfortable with asserting his own and the Audit Committee's position that DNS be awarded the contract.

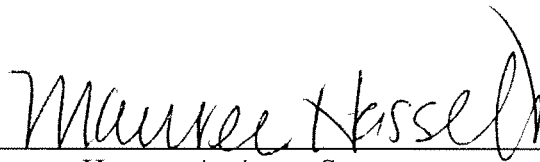
Mr. Tolson stated that the memo was comprehensive and complete in light of the process and review of the perception of bias or influence and he was in favor of the decision.

**PUBLIC COMMENT**

Mr. Jim Gummel, Regional Director, PAETEC Communications announced that their legal counsel would be filing a legal protest contesting the procurement process and vendor selection the following week.

There being no further business, on a motion by Mr. Hutchison, and seconded by Mr. Latoof, the meeting was adjourned at 4:20 pm

Certification:           The foregoing and attachments represent a true and complete summary of the actions taken by the New Jersey Economic Development Authority at its meeting.

  
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Maureen Hassett, Assistant Secretary