

# **CAPITAL PLANNING ADVISORY BOARD**

## **Minutes**

**October 24, 2024**

### **Call to Order and Roll Call**

The 2nd meeting of the Capital Planning Advisory Board was held on October 24, 2024, at 11:00 AM in Room 169 of the Capitol Annex. Senator Phillip Wheeler, Chair, called the meeting to order, and the secretary called the roll.

### **Present were:**

Members: Senator Phillip Wheeler Co-Chair; Representative Nancy Tate Co-Chair; Senator Adrienne Southworth; Pat Abell, Rocky Adkins, Charles Byers, John Hicks, Patsy Jackson, Holly Johnson, and Danny Rhoades.

Guests: Senator Stephen Meredith, Co-Chair, Government Contract Review Committee

LRC Staff: Liz Columbia and Jennifer Luttrell.

### **Approval of Minutes (August 29, 2024)**

A motion to approve the minutes of the August 29, 2024, meeting was made by Mr. Abell, seconded by Mr. Hicks, and approved by voice vote.

### **Consultant Overruns**

Senator Stephen Meredith, Co-Chair of the Government Contract Review Committee, gave a brief overview of the committee's charges and provided several examples of government contract change orders, including change orders up to a 225 percent increase in the original project scope and additional attorney fees. He brought this before this board to discuss how change orders connected to capital project-related procurements interacted with the six-year capital plan process.

Responding to Senator Wheeler's questions, Senator Meredith replied that he didn't have a total dollar amount but could provide the committee with a list of the consultant overruns. He did not know that the projects were intentionally underbid to request later additional funding for work that should have been factored into the original bid for the project or if they were legitimate change orders, but that they were approved on a percentage basis. When he questions the additional requests in Government Contract Review meetings, the Finance and Administration Cabinet replies that it is a familiar company, works well with the original firms, and will move forward with the request for additional funding.

Senator Meredith questioned the board about whether the requests for additional funds come before either the Capital Projects and Bond Oversight Committee or the Capital Planning Advisory Board. He said he was uncomfortable approving sole-source contracts out of convenience. He wants more accountability and transparency in the bidding process.

Senator Southworth suggested bringing the overruns before the Legislative Oversight Committee since the Government Contract Committee is limited to an advisory capacity. She appreciated him making the board aware of the overruns.

Mr. Hicks explained it is not an overrun because the contract amendment is for new and additional work that previously wasn't there. The senator acknowledged that in terms of original contracts. They didn't bid a dollar figure and returned to say it would cost you more. These are not construction change orders. These are architect and engineering services. The senator is describing a change to the original contract because it was determined and decided that a capital project authorized by the general assembly needs design work or is designing another project. The senator is bringing up a procurement question. It is not that they are doing something wrong. The firms are responding to a request by the Finance and Administration Cabinet to do more work than they were initially requested to do.

Senator Wheeler asked Mr. Hicks if it should return to the Finance and Administration Cabinet for not being clear on the initial scope request for the project. Mr. Hicks gave an example that was expressed in the Government Contract Review Committee. The Department of Corrections wanted to set up all the prisons in Western Kentucky to examine the conditions of the roofs to see what needed to be repaired, replaced, or unchanged, and so went through the statute to select an architect and engineering firm that analyzed all the prisons and recommended to do this can wait on this and from that the Department of Corrections and working with Finance said we've got a maintenance pool for roof repairs as recommended. Then, subsequently, the Finance and Administration Cabinet asked the architectural engineering firm that did the feasibility study to design and repair the roof at the prison based upon their recommendation and the review of that recommendation. Those are examples where the contract has increased. The scope of work is new. It's not for the scope of work already procured because they didn't know what the scope of work needed to be yet. The decision was made not to request a proposal (RFP) and to start from the beginning with another firm. The decision was made to go with the architectural engineering firm that did the feasibility study. I think the issue that the senator is raising is a procurement question, not about whether the commonwealth is getting taken."

Senator Wheeler stated that the taxpayers deserve responsibility for some of these groups that continue to get these projects.

Senator Meredith added that 99 percent of these additional requests are probably legitimate, but with the volume of business we do, that one percent could be substantial.

Representative Tate stated that it is not unusual to have budgetary overruns, but that the budgetary overruns for new projects or new initiatives to be brought back to the advisory committees and that the General Assembly needs to look at the responsibilities of the advisory committees and determine if any additional responsibilities need to be added to our list as well as obligations that are of the executive branch to bring those back to the committees. We need to ensure that we protect the tax dollars given to us. One hundred fifteen percent is appropriate, but 140 percent or more is not applicable because those are new projects or initiatives.

In response to Senator Wheeler's question, Senator Meredith replied that part of the problem was that each committee did not know the other committees' responsibilities or what had been done.

Senator Wheeler agreed with Representative Tate to bring these different groups together to gather more information on what the committees share and then provide additional oversight. It would be warranted to take this issue before the Appropriations and Revenue Committee to see what needs to be done differently statutorily. He concurred with Senator Meredith's suggestion to define a sole-source contract because some requests warrant an RFP.

### **Adjournment**

There being no further business, the meeting adjourned at 11:39 AM.