



LACCD OFFICE OF THE
INSPECTOR GENERAL
INTEGRITY • TRUST • COMMUNICATION

CONFIDENTIAL REPORT

Investigation Report

*Alleged Coercion on Selection of the WLAC
Watson/TLC Design Build Contractor*



LACCD OFFICE OF THE
INSPECTOR GENERAL

INTEGRITY • TRUST • COMMUNICATION

August 12, 2011

Chancellor Dr. Daniel J. LaVista
Los Angeles Community College District
770 Wilshire Blvd.
Los Angeles, CA 90017

Chancellor LaVista:

This is the Office of Inspector General's Investigation Report on Alleged Coercion on Selection Design Build Contractor at West Los Angeles College (WLAC).

This Investigation Report addresses whistleblower allegations of coercion and other irregularities that occurred during the scoring session of the Watson/Teacher Learning Center (TLC) Design Build project.

The Office of Inspector General's investigation found several irregularities on the scoring process, including the presence of lobbying to select the FTR/Leo A. Daly design team. However, we have not identified any incontrovertible evidence of motive, relationship or collusion between any of the specific parties involved in the selection and the selected Design Build team.

I appreciate the courtesies and cooperation extended to us during this investigation.

Sincerely,

Christine Marez
Inspector General
Los Angeles Community College District

TABLE OF CONTENTS

EXECUTIVE SUMMARY 1
ALLEGATION 3
BACKGROUND 3
INVESTIGATION APPROACH 3
FINDINGS 4
CONCLUSION AND RECOMMENDATIONS 8
REPORT DISTRIBUTION 9
EXHIBITS 9

EXECUTIVE SUMMARY

The Office of Inspector General reviewed whistleblower allegations of coercion and other irregularities that occurred during the scoring session of the Watson/Teacher Learning Center (TLC) Design-Build project at the West Los Angeles College (WLAC).

The investigation disclosed that:

- The five (5) member Design-Build selection committee on this project was comprised of only two (2) WLAC college representatives (approximately 40%). According to BuildLACCD statistics, college representatives comprise an average of 67% of the selection committee members on other Design Build projects.
- Several Campus Project Managers (Turner) and BuildLACCD Program staff were reported to have “strongly” lobbied to select the FTR/Leo A. Daly design team and encouraged a “rescoring” of the results after the Hensel Phelps/Carrier Johnson design team was announced as the highest scoring team.
- Both college representatives refused to revise their scores after the first scoring was completed; therefore, the final recommendation to award to the FTR/Leo A. Daly team was based on a selection by non-college representatives.

Based upon the findings, the selection of FTR was primarily the result of the revised scores from the non-college representatives, and that there may have been a strong, underlying motive for the non-college representatives to revise their scores. Although the composition of the selection committee is irregular based upon the low percentage of college representation, it cannot identify any incontrovertible evidence of motive, relationship or collusion between any of the specific parties involved in the selection and the selected Design Build team.

Review of the selection process also suggests that the BuildLACCD’s administration lacked “best practices” and proper protocols that are required when managing a procurement process, such as no issuance of written scoring guidelines, no meaningful presentation of “rules” for scoring, no maintenance of attendance sheets, no recording of the 1st and 2nd scoring results by the parties, etc.

Based upon the findings of this investigation, the Office of the Inspector General recommends the following immediate actions to ensure accountability and integrity in the Bond Program and to avoid any impropriety or bias in the Design Build selection process.

The District should:

- Require all Step 2 and Step 3 selection committee members to sign a *Conflict of Interest Disclosure/Confidentiality Form* prior to the scoring process, to disclose any financial or other conflicts of interests and certify to maintain the confidentiality of any materials and/or information reviewed during the selection process.
- Eliminate the “rescoring” practice that allows selection committee members to “revise” their score sheets once a design build contractor is identified during the scoring session.

- Revise the current Design-Build process, policies and procedures, specifically as listed below; and communicate revisions to all BuildLACCD, College and CPM staff; and take necessary actions to ensure compliance. Specific revisions should:
 - Eliminate the “rescoring” practice.
 - Clarify the selection committee appointment, approval, and composition to ensure that the majority of selection committee members are college representatives.
 - Require a record (sign-in sheet) all scoring session attendees, including position and titles.
 - Require utilization of a standardized presentation of “rules and policies” to all participants at the start of each Design-Build scoring session(s).

ALLEGATION

The Design-Build scoring process for the Watson/Teacher Learning Center (Watson/TLC) at West Los Angeles College (WLAC) was subject to irregularities and potential coercion to ensure that the FTR International/Leo A. Daly (FTR) Design-Build team would be selected.

BACKGROUND

The Watson/TLC Design-Build project consisted of two separate buildings. The proposed 30,000 square foot (SF) Watson Building housed the communication, entertainment and Media Arts (CEMA), Graphic Arts, Hollywood Cinema Production Resources (HCPR), Theater Departments, and included a theatre, sound stage, radio studio, classrooms and offices. The proposed 60,000 SF Teacher Learning Center (originally the Technology and Training Center) housed the campus IT “hub”, digital library, “smart” classrooms and offices. The Project Budget for the work, inclusive of all costs of design, engineering, construction, permitting, fees, supervision, and management was \$55,000,000.

The Design-Build project was opened to pre-qualified Design-Build contractors in two categories: (1) General Classroom and Administration Greater than \$25 Million and (2) Theater and Performing Arts.

On June 24, 2009, the Board of Trustees authorized use of the Design-Build system of delivery and the issuance of a Request for Proposals (RFP) for Design Build services from pre-qualified Design Build entities for the project.

On July 15, 2009, the Board of Trustees authorized the Design-Build contract with FTR International with a contract price of \$85,000,000.

INVESTIGATION APPROACH

During the investigation, all available documentation relating to the allegation was obtained and reviewed. Where possible, e-mail files were obtained and reviewed. From this information, relevant questions to ask parties familiar with and/or involved in the issue were identified to help obtain additional information and/or documentation.

Interviews with the following parties were conducted and the findings documented.

- John Oester, WLAC VP of Administration
- Bob Sprague, WLAC VP Academic Affairs (*Scorer*)
- Tom Hall, LACCD Executive Director Facilities and Planning
- Allan Hansen, WLAC Facility Director (*Scorer*)
- Helen Ferraro, BuildLACCD Design Build Administrator (*Attendee*)
- Michael Mallery, BuildLACCD Design Build (*Attendee*)

- Todd Cozolino, BuildLACCD Director of Construction (*Attendee*)
- Daynard Tullis, BuildLACCD Design Manager (*Attendee*)
- Steven Jacobson, CPM-Turner (*Scorer*)
- Bob Miller, Former CPM-Turner (*Attendee*)
- Jim Walker, CPM-Turner
- Art Gastelum, Owner, Gateway Science & Engineering
- James Sohn, *Former* BuildLACCD Director (*Scorer*)

FINDINGS

Based upon interviews conducted with the personnel listed above and review of the available e-mails and project documentation, the following details of the Design-Build Selection Process and events for the project can be reported.

The Design-Build Step 2 Request for Qualifications was issued on February 25, 2009 and eleven (11) submissions were received on March 18, 2009. The Step 2 review committee members consisting of one (1) College representative, (2) CPM, and (2) BuildLACCD staff members, specifically:

- Daynard Tullis, BuildLACCD, Design Manager
- Helen Ferraro, BuildLACCD, Design Build Administrator
- Steven Jacobson, CPM (Turner), Design Manager
- Michael Berman, CPM (Turner), Project Manager
- Allan Hansen, WLAC Facility Director

The Step 2 selection process was completed March 20, 2009 with the recommendation to move forward with the top three (3) scoring Design Build teams of FTR/Leo A. Daly, Hensel Phelps/Carrier Johnson, and PCL/Gruen.

The Design-Build Step 3 Request for Proposal was issued on April 10, 2009 with proposals received on June 12, 2009 and Best and Final Offers (BAFO) on June 18, 2009. The Step 3 review and selection process was conducted at WLAC in the Winlock Lounge on June 23, 2009. There were five Step 3 selection committee members:

- Bob Sprague, WLAC VP Academic Affairs (*Scorer*)
- Allan Hansen, WLAC Facility Director (*Scorer*)
- Steven Jacobson, CPM Turner (*Scorer*)
- James Sohn, Former BuildLACCD Program Manager (*Scorer*)
- Tom Jeffries, Former CPM Turner Project Manager (*Scorer*)

BuildLACCD staff, specifically Helen Ferraro and Michael Mallery, facilitated the Design Build Step 3 selection process for the Watson/TLC project.

The BuildLACCD staff reported that the selection committee members were briefed on the guidelines for the scoring process; however, most selection committee members could not recall whether any specific instructions were given regarding scoring (or “rescoring”) or whether an attendee “sign-in sheet” was completed (no document has been found). None of the parties could recall who all of the parties present at the session were. Score sheets were distributed at the start of the selection session and selection committee members reported that they scored various categories throughout the presentation.

Kirk Von Spaeth, the Program Criteria Architect, presented the technical review of the design packages. Bob Miller, Campus Project Manager (CPM), presented the evaluation of the design and project management team. Selection committee members were recording their scores “throughout the day” on their individual sheets. At the end of this process, the selection committee members handed their sheets to Helen Ferraro who, assisted by Michael Mallery, tabulated the scores. After the initial tabulation, Hensel Phelps was identified as the “apparent winning” firm.

Upon this announcement, several persons reported that the Selection Committee’s non-college representatives indicated that:

- “this was not going to work”
- “this was not the design the college president wanted”
- “this is not in line with the college president’s vision for this campus” and
- “we need to rescore”

Both the College Representatives on the selection committee, Allan Hansen and Bob Sprague, reported that they subsequently “refused” to revise their scores. The three (3) non-college scorers (James Sohn, Tom Jeffries, and Steven Jacobsen) revised their score sheets after the initial tabulation of scores. Radical decreases in values assigned by these scorers in the “Design” category, which composes 35% of the points, resulted in Hensel Phelps “losing” 1.7 points and FTR gaining 0.4 points.

The results of the rescoring resulted in the FTR/Leo A. Daly team receiving the highest score by 0.78 points compared to the initial scoring which had the Hensel Phelps team receiving the highest score by 2.00 points. After the rescoring, both college representatives, Allan Hansen and Bob Sprague, reported their being upset and “uncomfortable” with how the process was handled. Allan Hansen reported his concerns immediately after leaving the scoring session to John Oester, VP of Administration.

John Oester reported that several months later he addressed his concerns to Tom Hall and requested that he discuss the issues with Larry Eisenberg. Mr. Hall reported that when he discussed the issue with Mr. Eisenberg, Mr. Eisenberg instructed him that “this was a campus process and he (Tom) needed to stay out of the middle of it and let the campus process take place, and if anything took place there, it was up to the campus to handle it”. Following a meeting on May 18, 2011, John met with Tom privately and asked him about what had been

found. John recalls that Tom said "...someone at a higher level wanted FTR to win"; however Tom implicitly declared to the OIG that he would not have used that term and he told John "that ultimately it was the campus President's decision as to what he recommended to the Board".

Generally, the individual accountings of the events that occurred throughout the June 23, 2009 scoring session varied widely. In fact, several key events could not be corroborated by the majority of persons that either participated as selection committee members (scorers) or attendees.

The investigation has disclosed the following:

- The Design-Build selection committee was comprised of only two (2) WLAC college representatives (40%). According to BuildLACCD statistics, this is low compared to a 67% average composition of college scorers on 34 other Design Build projects; however the composition is consistent with other projects at WLAC.

Average Total Scorers	6.9	
College Scorers	4.6	67%
CPM Scorers	1.4	20%
BuildLACCD Scorers	0.9	13%

Figure 1 - Data Compiled by BuildLACCD

- According to the BuildLACCD *Touchpoint Handbook*, which provides guidelines for the Design Build process, BuildLACCD is responsible to "determine selection committee members (campus design manager and member of CPM team recommended as member)"; however, BuildLACCD staff indicated that the CPM and College President selected and approved the selection committee. (A CPM Staff member) [REDACTED] recalled that it was BuildLACCD staff that made the selection and issued the "invitation" to all selection committee members.
- BuildLACCD staff administering this process cannot recall why James Sohn, BuildLACCD Program Manager, was selected to be a scorer and not identified on the original invitation list as a selection committee member. Bob Miller [REDACTED] "invited James" to attend and be a scorer¹. Several persons reported that Mr. Sohn was quite vocal in communicating his preference for the FTR design.
- BuildLACCD's *Touchpoint Handbook* also requires that BuildLACCD meet with the CPM and selection committee to discuss process, roles, and responsibilities; however, several selection committee members cannot recall being presented any specific information regarding the scoring "rules" prior to the session. The CPM did not appear to have reviewed or been aware of the Design Build guidelines in the *Touchpoint Handbook*.
- Several CPM (Turner) and BuildLACCD Program staff in attendance were reported to have "strongly" lobbied to select the FTR/Leo A. Daly design and encouraged a

¹ It has been verified by an e-mail found in Mr. Sohn's e-mail files that he was originally invited to this scoring session by Bob Miller to observe the process. When the scoring session started, one of the college representatives designated to be on the Selection Committee, Mr. Rod Patterson, was absent and Mr. Sohn was invited to take his place as a selection committee member.

“rescoring” of the results once the Hensel Phelps/Carrier Johnson team was announced as the highest scoring team. Several persons reported that the CPM staff present were the most vocal throughout the day speaking “on behalf of Dr. Rocha” regarding his “vision” for the college.

- Bob Sprague has reported that he had, in fact, left the room for his office after he “turned-in” his score sheet (around 4:00 pm) and thought the process had been completed. He was retrieved from his office approximately 45 minutes later by Steven Jacobsen and, upon returning to the scoring room, was asked if he “wanted to change his scores” since the “computation had been re-done”. While both Alan Hansen and John Oester corroborated this key event, other persons interviewed could not recall when, or if, Mr. Sprague had left the room, including Mr. Jacobson² who had no recollection of this event.
- Both College representatives refused to revise their scores after the first scoring was completed; thus the final recommendation to award to the FTR/Leo A. Daly team was based on a selection by non-college representatives.
- Both campus scorers indicated that they believed the FTR and Hensel Phelps designs “aligned” with the overall campus master plan.
- During the OIG review of the submitted Design-Build proposals, it was discovered that the FTR Design Build Proposal submitted on June 12, 2009, FTR lists Gateway Science and Engineering (GSE) as a Design Build team “consultant”. This relationship³ may represent a possible conflict of interest, as GSE is the current Mission College CPM administering FTR’s contract for the Student Services Center project.

A review and analysis of the individual score sheets and scoring summary found that:

- All score sheets had revisions, however based upon information received in interviews, and the review of their scoring sheets, Bob Sprague and Allan Hanson apparently did not revise any scores after the initial tabulation.
- The three (3) non-college selection committee members, James Sohn, Tom Jeffries and Steven Jacobson apparently all revised their score sheets after Hensel Phelps was announced as the “winner”. An analysis of their individual score sheets indicated that scores primarily in the Design Excellence categories appear to have been lowered for Hensel Phelps and raised for FTR by all three scorers, and by more than 2 points for each category revised.
- Since BuildLACCD did not record the initial scores, the OIG performed a calculation based upon inspection of the original score sheets revisions. This review revealed that Hensel Phelps would most likely have been the highest scoring team with 86.77 points and that FTR was next with 84.77 points.

² At two separate interviews, Mr. Jacobsen, the CPM Design Manager for the project, was able to recall very few scoring session events.

³ Mr. Art Gastelum, Owner of Gateway, has advised that, prior to agreeing to join the FTR Team, he had consulted with Bob Miller, James Sohn, and Larry Eisenberg to verify his participation on the FTR team would not constitute or be perceived as a conflict of interest and/or jeopardize his other Mission College or Bench contracts with the District. He reported that when none of them had any objections or saw a conflict, he agreed to be included on the team. Mr. Gastelum also stated Gateway and FTR have subsequently pursued other business opportunities.

- After the “rescoring”, Hensel Phelps scores dropped by 1.4 points for a total of **85.37** and FTR scores increased by 1.38 points, for a total of **86.15**. This resulted in FTR becoming the highest scoring team by **0.78 points**.

CONCLUSION AND RECOMMENDATIONS

Based upon the findings, the selection of FTR was primarily the result of the revised scores from the non-college representatives, and that there may have been a strong, underlying motive for the non-college representatives to revise their scores, that of pleasing the college president to whom they reported.

The OIG finds that, although the composition of the selection committee is irregular based upon the low percentage of college representation, it cannot identify any incontrovertible evidence of motive, relationship or collusion between any of the specific parties involved in the selection and the selected Design Build team.

Review of the selection process does suggest that the BuildLACCD’s administration lacked “best practices” and proper protocols that are required when managing a procurement process, i.e., no written scoring guidelines, no meaningful presentation of “rules” for scoring, no maintenance of attendance sheets, no recording of the 1st and 2nd scoring results by the parties, etc.

The OIG recommends the following immediate actions to ensure the accountability and integrity of the bond program, and avoid any impropriety or bias in the Design Build selection process.

The District should:

- Eliminate the “rescoring” practice that allows selection committee members to “revise” their score sheets once a design build contractor is identified during the scoring session.
- Require all Step 2 and Step 3 selection committee members to sign a *Conflict of Interest Disclosure/Confidentiality Form* prior to the scoring process, to disclose any financial or other conflicts of interests and certify to maintain the confidentiality of any materials and/or information reviewed during the selection process. BuildLACCD Design Build administrators should review and report all conflicts of interest to the Facilities Executive.
- Revise the current Design-Build process, policies and procedures, specifically as listed below; and communicate revisions to all BuildLACCD, College and CPM staff; and take necessary actions to ensure compliance. Specific revisions should:
 - Standardize the Design-Build selection and scoring process.
 - Eliminate the “rescoring” practice.
 - Clarify the selection committee appointment, approval, and composition to ensure that the majority of selection committee members are college representatives.
 - Require a record (sign-in sheet) all scoring session attendees, including position and titles

- Require utilization of a standardized presentation of “rules and policies” to all participants at the start of each Design-Build scoring session(s).

REPORT DISTRIBUTION

Board of Trustees
Chancellor Daniel J. LaVista
Dr. Adriana Barrera, Deputy Chancellor
Tom Hall, Director of Facilities Planning & Development
Camille Goulet, General Counsel

EXHIBITS

