

SCHOOL FACILITIES BOARD

October 5, 2017

4:00 PM

**Arizona State Capitol Executive Tower 1700 W. Washington St.,
Ste. 104, Phoenix, AZ 85007**

I. Call to Order

The meeting was called to order at 4:04 P.M.

II. Roll Call

Board Members Present:

Sean McCarthy

Edward Boot

Board Members Present by Telephone:

Sandy Williams

Vern Crow

Tom Rushin

Brian Peltzer

Bob Rice

Board Members Absent:

Charles Tack

III. Minutes

There were no minutes available.

IV. Consent Agenda

There was not a consent agenda.

V. Director's Report

Director Bakalis did not provide a Director's Report.

VI. Building Renewal Grant Requests

There were no building renewal grant requests.

a. Consideration and possible vote to accept, reject or modify Building Renewal Grant Requests - Denial

The Board asked questions and discussed various aspects of the request.

- Tolleson Union 013BRG

Bob Rice asked the question, if a District wants to contribute financially to a project, why can't SFB fund the difference between the lowest bidder and the awarded bidder? He stated SFB will still be paying the minimum amount of money they think is essential for the project. Furthermore, TUHSD did hard bid the project, therefore he feels this is a process issue rather than a funding issue.

Sean McCarthy stated that, while the design phase was approved, construction funding has already been rescinded and SFB does not reimburse monies. Mr. McCarthy further stated the construction award was an estimate contingent upon adhering to procurement policy as well as the Terms and Conditions of the project. He agreed with Mr. Rice that paying for the difference between the lowest bidder and the awarded bidder is not outside SFB boundaries, however this project in particular improperly used the procurement process.

Jeremy Calles, CFO to TUHSD, demanded SFB show him exactly where in statute, guidelines, or Arizona procurement policy Tolleson Union was in violation. He initially stated the District originally procured a vendor through an IFB; however, after cancelling the bid he was told that the vendor could not complete the project within four months, and the project would be considered abandoned if it were not complete within four months of being awarded. Therefore, by his own discretion, he chose another vendor. Mr. Calles further stated SFB cannot terminate a project retroactively, the District must be given one month's notice and is eligible for reimbursement for work done during that time.

Rodger Decker, attorney for TUHSD, questioned SFB's authority to rescind monies and reiterated the District must receive a 30 day notice for terminating a project, stating if the project was terminated on 9/6/2017, the effective date would be 10/6/2017.

Edward Boot asked the District representatives why they continued work on the project after it was terminated on 9/6/2017? Mr. Calles declared the motion to rescind funding was not legally binding.

At this time Director Bakalis asked Mr. Calles to calm his tone. He explained SFB wants to fund the District's project, but it must be done within SFB guidelines. Director Bakalis clarified the intent of an estimate is to give funding to an awardable, competitive bid; to allow Staff to award funding without having to go to the Board multiple times for the same project; and is fundamentally contingent upon adhering to procurement policy

as well as the Terms and Conditions of the project. In this case, rescinding the monies means Staff determined the District did not follow proper procurement policy. Director Bakalis explained to the District that while they hard bid the project, they thereafter decided not chose the lowest bidder. He further stated, in a meeting at the SFB office in 8/30/2017, SFB directed Mr. Calles not to release a purchase order.

Mr. Calles proclaimed SFB does not have procurement authority over School Districts. Mr. Calles further stated the previous facilities director, Richard Oros, originally conducted an IFB; however, when Mr. Oros went of FMLA he filled his position at the District and completely disregarded the original IFB for the sole reason that he does not believe SFB can dictate procurement policy.

At 4:32 P.M., Sean McCarthy made a motion for the Board to go into Executive Session. Edward Boot seconded. The motion passed with a voice vote of 7-0.

After Executive Session, Sean McCarthy ordered the Board back into public session at 5:06 P.M.

Edward Boot made a motion for Board approval of the staff recommendation that Tolleson Union's award of Building Renewal Grant funding (\$5,000 for construction administration and \$8,500 for commissioning) be rescinded because SFB staff considers the construction phase (supplemental request 6/28/2017) of the project the district's financial responsibility and will not reimburse the district for these expenditures. Further, SFB staff recommends that the Terms and Conditions be terminated. Notwithstanding termination of the Terms and Conditions effective 10/5/2017, the design phase awarded on 5/3/2017 is eligible for payment when payment applications are received. Sandy Williams seconded. The motion Passed with a voice vote of 6-1.

Nays: Rice

Sean McCarthy concluded by stating SFB would be creating a horrific precedent if they allowed a District to spend the vendor's time and money on a hard bid process only to establish the SFB's financial participation in the project, disregard the outcome of the IFB, and chose whichever vendor they prefer.

VII. Board Member Summary of Current Events

The Board did not provide a summary of current events.

VIII. Future Agenda Items

There were no future agenda items.

IX. Public Comment

There was no public comment.

X. Adjournment

The meeting was adjourned at 5:11 P.M.

Approved by the School Facilities Board on

A handwritten signature in black ink, appearing to read "S. Mc", is written over a horizontal line.

Chair