



16. **Document Requested:** January 20, 2011, "Consultant" email from Mr. Joseph Reilly to Vice President Sara Winchester
17. **OCC Response:** January 26, 2011, "Consultant" email from Vice President Sara Winchester to Mr. Joseph Reilly
18. **Document Requested:** January 26, 2011, "Consultant" email from Mr. Joseph Reilly to Vice President Winchester
19. **OCC Response:** January 31, 2011, "Consultant" email from Vice President Sara Winchester to Mr. Joseph Reilly

Explanation:

The January 20, 2011, email from Mr. Joseph Reilly to Vice President Winchester pertains to President Jon Larson's relationship with Dr. Richard Yankosky and objects to the lack of competitive bids being solicited.

Mr. Reilly expresses "concerns" about a consulting contract awarded to Dr. Yankosky. These concerns are fully addressed in Vice President Winchester's response dated January 26, 2011.

The relationship between President Larson and Dr. Yankosky was fully disclosed and it was determined that their long-standing professional relationship was not a reason to exclude Dr. Yankosky from providing specialized services for which he was highly qualified.

The e-mail dated January 26, 2011, from Mr. Reilly to Vice President Winchester concerns her response to Mr. Reilly about President Larson, Dr. Yankosky and SunGard.

The contracts (Yankosky and Sungard) awarded were in full compliance with County College contracts law. Mr. Reilly refuses to accept Vice President Winchester's review of the matter and requests another review by outside counsel. Mr. Reilly requested this review despite the fact that he is aware that outside counsel routinely reviewed and approved each

and every purchasing item before it was presented to the Board for approval. Counsel review of the procurement agenda is a routine practice that continues today.

Mr. Reilly does not agree with the College's long-standing interpretation of the law, which has been repeatedly confirmed (see e-mail from Mr. Jack Sahradek dated January 24, 2011).

The applicable portion of the law may be accessed online at: http://www.njleg.state.nj.us/2000/bills/pl01/281_.htm

The January 31, 2011, email from Vice President Winchester to Mr. Reilly responds to concerning his e-mail to her dated January 26, 2011. In this email Vice President Winchester reiterates that the College has always complied with the law and Mr. Reilly's "concerns" appear to be biased in order to unfairly discredit College officials.

Ann Feneis

Subject: FW: Consultant

From: Joseph Reilly
Sent: Thursday, January 20, 2011 4:29 PM
To: Sara Winchester
Cc: Karen Papakonstantinou
Subject: Consultant

I am concerned with the proposed award of a \$60,000 IT consulting services contract for expanding the College's distance learning program, establishing a data warehouse and exploring options for the delivery of information technology services within the College to Dr. Richard Yankosky. Approval of this contract is being requested at the College Board's January 24, 2011, meeting. My concerns are as follows:

1. President Larson and Dr. Yankosky both worked at Frederick Community College.
2. Dr. Yankosky is shown on several College organizational charts, as recently as July 2009, as an employee of SunGard/Collegis, the College's professional information technology management services contractor.
3. Competition was not solicited by the College for several five year renewals of SunGard/Collegis' professional information technology management services contract.
4. Dr. Yankosky was part of a College presentation that included President Larson at the 85th Annual Convention of the American Association of Community Colleges in April of 2005.
5. Spring 2006, SunGard/Collegis, represented by Dr. Yankosky and Chip Stoll, renamed its endowment to the Hierling SunGard/Collegis Scholarship.
6. No advertised RFQ was issued by Purchasing, the College's usual process for securing professional services.
7. Purchasing did not prepare the Board Resolution.
8. The Board Resolution states that Dr. Yankosky has completed and submitted an acceptable Business Entity Disclosure Certification. While required documents have been e-mailed at your request to Dr. Yankosky, no completed documents have been returned by Dr. Yankosky to Purchasing.
9. Dr. Yankosky has advised Purchasing that President Larson's secretary will notarize the documents for him on Monday, January 24, 2011, and that he will thereafter bring them to the assigned Purchasing buyer.
10. A completed and acceptable Business Entity Disclosure Certification does not do away with the need for competition.
11. Dr. Yankosky has been provided with an ocean.edu address before Board consideration of the proposed contract.

As a point of reference, In a case involving an advertised bid, the New Jersey Supreme Court upheld the Director of the Division of Purchase and Property's decision to reject the low bidder because of the possible public perception of an inappropriate relationship between the Lottery Commission's director and the low bidder, the "appearance of impropriety" standard. Keyes Martin & Co. v. Director, Division of Purchase and Property, 99 N.J. 244 (1985).

Ann Feneis

Subject: FW: Consultant

From: Sara Winchester
Sent: Wednesday, January 26, 2011 9:45 AM
To: Joseph Rellly
Cc: Karen Papakonstantinou
Subject: Consultant

Joe,

Your email as well as the attached documents were shared with Trustees at the January 24, 2011 meeting and the Trustees unanimously voted to approve the award.

I am concerned that you are spending college time researching issues that are not relevant to your job. You assumed that Dr. Yankosky's past working relationship with OCC had not been disclosed and it was incumbent upon you to expose his past relationship with Dr. Larson. In fact, the opposite is true. Dr. Larson has informed the Board of his intent to hire Dr. Yankosky when he ended his relationship with Sungard and he openly shared the fact that he had worked with Dr. Yankosky both through Sungard and at Frederick. Dr. Larson assigned me to handle the negotiations with Dr. Yankosky and it was not a priority for me to share the details of a project that I was personally working on with you. You spent college time researching irrelevant details such as Dr. Larson and Dr. Yankosky attending a conference in 2006 and Sungard changing the name of a scholarship. You have inappropriately used college time to research details that have no relevance to your assigned duties with the apparent intent of alleging impropriety that does not exist.

My responses to your concerns are detailed below.

1. It is true that President Larson and Dr. Yankosky both worked at Frederick Community College. The fact that they worked together previously does not constitute an inappropriate relationship. There was no attempt to hide the fact that they worked together and built a relationship of mutual respect and trust over the years. Dr. Larson's familiarity with Dr. Yankosky's background, skills and work ethic provides a level of comfort that would not exist if we hired a consultant with whom there was no previous working relationship.
2. You point out that Dr. Yankosky is shown on several College organizational charts, as recently as July 2009, as an employee of SunGard/Collegis, the College's professional information technology management services contractor. Dr. Yankosky recently retired from Sungard and the expertise he gained while working for Sungard is a primary reason for his appointment as consultant to OCC. OCC and Sungard have had extensive discussions about Dr. Yankosky consulting for OCC and Sungard management is well aware that OCC intended to hire Dr. Yankosky as a consultant.
3. You contend that competition was not solicited by the College for several five-year renewals of SunGard/Collegis' professional information technology management services contract. IT services are covered by exception (19) in County contract law: providing goods or services for the use, support or maintenance of proprietary computer hardware, software peripherals and system development for the hardware. Even though competition was not required, an RFP was issued in August, 2008 to solicit competition for some of the services covered by the Sungard contract (Joyce Ann Lamparello was the buyer). That process did not result in a change of contract award because it was determined that Sungard was providing those services very effectively at less cost than proposed by any of the respondents.

It is disconcerting that you state that competition was not solicited for the Sungard contract when you did not work at the College in 2008 and you do not have knowledge of what took place. I, in fact, spent several months personally working on alternatives to the Sungard contract that would be practical and affordable for the College and had many discussions with the Finance Committee of the Board on the subject. With hiring of Dr. Yankosky as consultant, we are now moving forward on the plan that was first conceived when the RFP was concluded with the reappointment of Sungard. You have no way of knowing the depth of work that took place before the Sungard contract was renewed and it is not acceptable that you imply that the College did not act responsibly when renewing the Sungard contract.

4. Dr. Yankosky was part of a College presentation that included President Larson at the 85th Annual Convention of the American Association of Community Colleges in April of 2005. This is evidence of a professional relationship that does not give any appearance of impropriety.
5. In the Spring of 2006, SunGard/Collegis, represented by Dr. Yankosky and Chip Stoll, renamed its endowment to the Hlering SunGard/Collegis Scholarship. Sungard routinely provides scholarship contributions to the institutions they serve. These scholarships have nothing to do with Dr. Yankosky or Chip Stoll nor are such donations indicative of impropriety.
6. No advertised RFQ was issued by Purchasing, the College's usual process for securing professional services. Exception 15 to County College procurement law exempts professional consulting services from the requirement to solicit competition. While OCC uses the RFQ and RFP for most professional services, it is our practice to award professional services contracts without competition when there is a compelling reason to do so. The reasons for not soliciting competition in this instance are listed in the attached document.
7. You assert that Purchasing did not prepare the Board Resolution. I personally prepared the Board Resolution. The Purchasing Department reports to me and I am charged with the responsibility of reviewing and approving all resolutions before they are presented to the Board. It is not unusual for me to prepare resolutions and I have been doing so for years. Your concern that Purchasing did not prepare the resolution indicates a lack of respect for the chain of command and implies impropriety that does not exist. The resolution in question was reviewed and approved by counsel prior to submission to the Board.

It is not acceptable for you to infer that I am not a part of the Purchasing Department. It is important that you respect the chain of command within OCC and my right and obligation to contribute to and supervise all the operations under my direction, which you are undermining by writing your "concern" that I prepared a resolution. Future occurrences of this nature may be considered insubordination and, if so, will be subject to disciplinary action.

8. The Board Resolution states that Dr. Yankosky has completed and submitted an acceptable Business Entity Disclosure Certification. The required documents have been completed and returned by Dr. Yankosky to Purchasing.
9. Dr. Yankosky has advised Purchasing that President Larson's secretary will notarize the documents for him on Monday, January 24, 2011, and that he will thereafter bring them to the assigned Purchasing buyer. The completed documents were submitted on January 24, 2011. Dr. Yankosky signed the documents in the presence of Ms. LaPosa who is a notary.
10. You contend that the completed and acceptable Business Entity Disclosure Certification does not do away with the need for competition. Again, there is no requirement for competition for professional services. You have repeatedly declared that there is a "need for competition" for professional services. While I agree that it is appropriate to solicit competition for professional services when that is most likely to serve the college's best interest, I determined that in this instance the college's interest would be served by avoiding a costly,

unproductive, and time-consuming process that bore virtually no promise for a better outcome than a non-competitive negotiation with a known, competent consultant prospect.

11. Dr. Yankosky was provided with an ocean.edu address before Board consideration of the proposed contract. Dr. Yankosky was assigned the ocean email address several years ago while serving in his role as Sungard General Manager and we continued to use this address to facilitate communication while working out the details of the consultant assignment. There is nothing inappropriate in continuing to use the ocean email address.

In conclusion, I am concerned that your actions in this matter approach, if they do not cross, the line of insubordination and making false charges of improper conduct by college officials who approved the restructuring plan that included your position in the Reduction in Force. Should an incident of this sort occur again and be found to constitute insubordination or making false charges, you will be subject to appropriate disciplinary action.

*Sara Winchester
Vice President of Finance
Ocean County College
College Drive
Toms River, NJ 08754
732-255-0400 ext. 2062*

Ann Fenels

Subject: FW: Consultant

From: Joseph Reilly
Sent: Wednesday, January 26, 2011 3:59 PM
To: Sara Winchester
Cc: Karen Papakonstantinou
Subject: RE: Consultant

Sara:

I have raised concerns with numerous College procurements since I was hired. I would be remiss in my responsibility as the College's Manager of Purchasing if I did not advise you and Karen of my concerns with the proposed Board resolution/contract award involving Dr. Yankosky and with the College's contract with SunGard/Collegius, placing my concerns in the context of the standard of review enunciated by the New Jersey Supreme Court. I am sorry that you view the concerns that I brought to your attention in a different manner.

While I am personally concerned with many aspects of your e-mail, I am concerned from a public procurement perspective with your statement in point 3 that SunGard/Collegius' IT services contract is covered by exception (19) in the County College Contracts Law and that "competition was not required." It is my understanding that, notwithstanding the fact that IT contracts are exempt from public advertising under exception 19 (NJSA 18A:64A-25.5a(19)), competition is still required.

NJSA 18A:64A-25.5a(19) permits IT contracts to be awarded without public advertising. NJSA 18A:64A-25.5a, however, does not state that proposed contracts relating to the 24 listed subject matter exceptions to public advertising, including IT exception (19), can be awarded without competition. To the contrary, NJSA 18A:64A-25.19 exempts only professional services (exception (1)) from the general requirement for soliciting quotations. NJSA 18A: 64A-25.19 states in pertinent part: "...the contracting agent shall, except in the case of professional services, solicit quotations therefor whenever practicable." A final point in this regard is the fact that the County College Contracts Law expressly limits IT contracts to terms of not more than five years, NJSA 18A:64A-25.28.

It is critical that the manner in which contracts involving the 24 subject matter exceptions to public advertising listed in NJSA 18A:64A-25.5a can be awarded be clarified. Can you request input from Jack Sahradiuk in this regard? I am available at Jack's convenience to discuss this issue.

Joe R.

Ann Feneis

Subject: FW: Consultant

From: Sara Winchester
Sent: Monday, January 31, 2011 5:07 PM
To: Joseph Rellly
Cc: Karen Papakonstantinou
Subject: Consultant

Joe,

Mr. Sahradnik was the College attorney in 2008 when the Sungard contract was awarded. His office reviewed and approved the resolution at that time and it is clear that Mr. Sahradnik does not agree with your interpretation of the law. It is not within the scope of your position to go back to 2008 and request the College attorney review the work that his office did at that time. In my tenure here at OCC the exceptions enumerated in 18A have been consistently interpreted as exceptions to public bidding which do not require competition. I have been involved in the purchasing issues across the sector through the Business Officers Association and the Joint Purchasing Consortium for years and this interpretation is also consistent with the practices of the other 18 community colleges.

You state that you are raising concerns as part of your responsibility as the College's manager of Purchasing. In my January 26th email to you I pointed out that some of your concerns were outside the scope of your job and you are continuing to raise concerns that are outside your responsibilities. You know that the College attorneys review each and every Board agenda item prior to presentation to the Board of Trustees. The attorneys review is the final determination.

It is of great concern to me that you now opine that under 18:A only professional services can be awarded without competition. A quick review of the past few months Board agendas shows many contracts awarded without competition. The resolutions clearly indicate that the goods or services were exempt from bidding due to an exception in 18A. For example in January 2011 alone the following awards were made without competition:

Monmouth-Ocean Hospital Services Corp.	\$67,445
Center State Management Corp/Marathon	\$230,000
Sirsidylix	\$24,574
EBSCO Subscription Services	\$50,944

It is not reasonable for you to be concerned about the 2008 Sungard contract award while at the same time ignoring the current awards made using the same interpretation of the law. It appears that your concerns are biased in an attempt to implicate improper conduct by college officials who approved the restructuring plan that included your position in the Reduction in Force. As stated in my prior email, this type of conduct could be subject to disciplinary action. Therefore, in accordance with the FPA agreement, a meeting to discuss this matter will be scheduled. You are entitled to representation at this meeting.

*Sara Winchester
Vice President of Finance
Ocean County College
College Drive
Toms River, NJ 08754
732-255-0400 ext. 2062*

Ann Feneis

Subject: FW: Print and attach emails below to pdf 12, 13, 14, 15

From: Jack Sahradnik [<mailto:jsahradnik@bskb-law.com>]

Sent: Monday, January 24, 2011 4:30 PM

To: Sara Winchester

Cc: Dooley Lauren

Subject: Re: Landscape Architect RFQ

Professional services are exempt from bidding, whether the amount is over or under \$17,500. If over \$17500, you have the option to do an RFP or RFQ process OR require a not fair and open political contribution disclosure statement.

Jack