

ARIZONA INDEPENDENT REDISTRICTING COMMISSION

Tuesday, May 31, 2011
9:35 a.m.

Location

**Evans House
1100 West Washington
Phoenix, Arizona 85007**

Attending

Colleen C. Mathis, Chair
Jose M. Herrera, Vice Chair
Scott Day Freeman, Vice Chair
Linda C. McNulty, Commissioner
Richard P. Stertz, Commissioner

Mary O'Grady, legal counsel
Joe Kanefield, legal counsel

Raymond F. Bladine, Executive Director
Kristina Gomez, Deputy Executive Director
Buck Forst, Information Technology Specialist

REPORTED BY:

Marty Herder, CCR
Certified Court Reporter
CCR No. 50162

Phoenix, Arizona
May 31, 2011
9:35 a.m.

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5 (Whereupon, Chairperson Mathis,
6 Commissioner Stertz, and Commissioner McNulty appeared via
7 videoconference, and Vice Chair Herrera appears
8 telephonically.)

9 P R O C E E D I N G S

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11
12 (Whereupon, the public session commenced.)

13 CHAIRPERSON MATHIS: Thank you. I'd like to call
14 this meeting of the Arizona Independent Redistricting
15 Commission to order.

16 Today is Tuesday, May 31st. And the time is 9:35
17 in the morning.

18 Let's go ahead and start with roll call.

19 Vice Chairman Freeman.

20 VICE CHAIR FREEMAN: Here.

21 CHAIRPERSON MATHIS: Vice Chair Herrera.

22 VICE CHAIR HERRERA: Here.

23 CHAIRPERSON MATHIS: Commissioner McNulty.

24 COMMISSIONER McNULTY: Here.

25 CHAIRPERSON MATHIS: Commissioner Stertz.

1 COMMISSIONER STERTZ: Thankfully here.

2 CHAIRPERSON MATHIS: We have a quorum.

3 I'd like to acknowledge our legal counsel. We
4 have Joe Kanefield and Mary O'Grady here today.

5 And I'm not sure if we have anyone from SPO today,
6 but we can talk about that when we get to that agenda item.

7 I understand from our executive director that
8 there's some people in the audience who would like to do
9 public comment. And we don't have that on the agenda, but
10 if that's okay with legal counsel, I'd like to go ahead and
11 entertain a public comment session now.

12 MARY O'GRADY: Yes. There's no problem proceeding
13 as long as you know that you cannot discuss the comments
14 received or take any action as a board.

15 CHAIRPERSON MATHIS: Got it.

16 MARY O'GRADY: As a commission.

17 CHAIRPERSON MATHIS: Okay. Thank you.

18 So, I don't know how many requests to speak that
19 we have.

20 VICE CHAIR FREEMAN: Madam Chair, I have two
21 requests. The first, and please correct me if I
22 mispronounce, is from Geri Ottobony.

23 And if you could step up to the microphone and
24 tell us -- state your name and tell us who you represent.

25 GERI OTTOBONY: My name is Geri Ottobony.

1 VICE CHAIR FREEMAN: Pardon me?

2 GERI OTTOBONY: My name is Geri Ottobony. Can you
3 hear me okay?

4 VICE CHAIR FREEMAN: Can you hear her down in
5 Tucson?

6 CHAIRPERSON MATHIS: I think so. Go ahead.

7 GERI OTTOBONY: Do I need to rise it up?

8 VICE CHAIR FREEMAN: Maybe just project a little.

9 GERI OTTOBONY: Project. Okay.

10 I represent the NATOT. But what I'm, what I'm
11 doing right now is I'm representing Marilyn Zerull, who
12 served at the PCRWC. She attended the last meeting, and
13 there were some very significant comments left out of the
14 minutes of that meeting, Friday the 13th of May, 2011.

15 Vice Chair Herrera's first statement of Michael
16 Mandell, when Vice Chairman Freeman made an amendment to the
17 motion to then pick Michael Mandell the choice of the
18 Democrats and Lisa Hauser the choice of the Republicans,
19 Vice Chairman Harrah -- I'm sorry, Herrara -- Herrera, voted
20 against this.

21 This may be the clearest case of bias that I've
22 ever seen.

23 I was shocked when it happened, but more shocked
24 when this important piece of information was deleted from
25 the minutes.

1 It is now clear that the Commission was extremely
2 biased from the very beginning.

3 If it was not biased, it would have given the
4 Republicans who they chose as an attorney and the Democrats
5 who they chose as an attorney as was done by the Commission
6 in 2000.

7 This is not fair and it is not balanced.

8 To make it even worse, when the comment by
9 Chairman Mathis that the two firms chosen were not the best
10 qualified, Vice Chair Freeman is an attorney, and she was
11 basically saying that she was not -- I'm sorry, that he did
12 not know which attorney was best qualified.

13 The other piece of information that was left out
14 of the minutes was after Vice Chairman Herrera said again
15 nobody got what they wanted exactly, but that is what means
16 when you negotiate.

17 Vice Chairman Freeman objected to that and said
18 that this was not true.

19 The amendment to the motion was made to give both
20 sides exactly what they wanted, and that was voted down by
21 the Independent siding with the Democrats.

22 I request that this be added to the minutes.
23 Deletion from the minutes further show that this process is
24 biased.

25 I regretfully submit that the minutes used to be

1 amended to include Vice Chairman Freeman's exact words in
2 his final objection to the Vice Chairman Herrera's assertion
3 and that Vice Chairman Herrera's first pick of Michael
4 Mandell be included in the minutes in bullet 11, otherwise
5 it would appear to the public that this is a cover-up of
6 what appears is already happening.

7 Thank you.

8 VICE CHAIR FREEMAN: Thank you.

9 The next slip we have filled out is from Lynn
10 St. Angelo.

11 If you would step up to microphone, please, and
12 tell us -- state your name and tell us who you're here
13 representing.

14 LYNN ST. ANGELO: Sure. I'm Lynn St. Angelo, and
15 I'm representing OVHAT.

16 I was in at the meeting in Tucson on May the 10th.

17 And the meeting minutes that were put out for that
18 meeting do not resemble in any way my remarks.

19 And I can reread them, but I would just assume
20 turn them into the court reporter and have them recorded if
21 that's okay.

22 I want them recorded exactly as I said them.

23 I was specific, and I want exactly what I said to
24 be in the minutes.

25 And it wasn't even close to what I said that was

1 in the minutes.

2 Another glaring thing that was omitted from those
3 minutes was when the Solicitor General in the meeting in
4 Tucson on May 10th was -- it was very obvious that they
5 weren't going to consider that attorney that had been
6 assisting the Commission to be considered in this selection
7 of the attorney because of the, quote, appearance of
8 conflict of interest.

9 But it appears when the current Solicitor General,
10 Dave Cole, said there is no conflict interest, that was
11 ignored, and it was not in the minutes. In fact, the
12 Assistant Attorney General, James E. Barton II, who had been
13 assisting the Commission with advice on issues like open
14 meeting laws, revealed that he himself is a Democrat.

15 And that was not in the minutes.

16 Why are relevant details being deleted from the
17 minutes.

18 The public will basically look at the minutes from
19 meetings to try to understand what is going on at the
20 Commission.

21 I respectfully request that my comments in their
22 entirety be entered into the minutes from this meeting, and
23 that to that end I am submitting them to the court reporter.
24 Thank you.

25 VICE CHAIR FREEMAN: Thank you.

1 Those are the only two slips I have completed. If
2 there's anyone else who would like to make a public comment?

3 (No oral response.)

4 VICE CHAIR FREEMAN: No one else is coming
5 forward.

6 CHAIRPERSON MATHIS: Okay.

7 Thank you for managing that for us,
8 Vice Chair Freeman.

9 That takes us to the next item on the agenda,
10 which is discussion and consideration of confidential
11 documents associated with the mapping consultant RFPs.

12 And I don't know who from State Procurement Office
13 is in the room.

14 Is anyone there?

15 VICE CHAIR FREEMAN: Jean Clark is here.

16 JEAN CLARK: And Christine.

17 CHAIRPERSON MATHIS: Oh, great.

18 VICE CHAIR FREEMAN: And Christine.

19 CHAIRPERSON MATHIS: We have Jean Clark, the
20 administrator of State Procurement.

21 Is Jean at the microphone?

22 VICE CHAIR FREEMAN: She's coming.

23 CHAIRPERSON MATHIS: Okay. Great.

24 JEAN CLARK: Good morning.

25 CHAIRPERSON MATHIS: Good morning, Jean.

1 Jean, if you could -- if, if, Jean, you could
2 bring us up to speed on kind of where we are with the RFP
3 process and what kind of our next steps are, that would be
4 very helpful, to give everyone some context, since it's been
5 a while since our last meeting on this topic.

6 JEAN CLARK: Okay. Jean Clark with the State
7 Procurement Office, State Procurement administrator.

8 Just to inform you, Tom Ellwanger, who was
9 previously working on this project, has retired from state
10 service last week.

11 VICE CHAIR FREEMAN: Wow.

12 JEAN CLARK: Yeah.

13 Christine Fruitman is acting as the procurement
14 officer with myself trying to assist as we try to do this
15 transition.

16 Where we stand at this point is if you recall last
17 week we had a few questions that came in from some other
18 potential offers in regards to the solicitation. So we're
19 in the process, I think, had some correspondence to draft
20 some responses to those questions along with an amendment
21 that needs to be issued because some of those items
22 definitely do impact the deliverables which would ultimately
23 impact the pricing.

24 So we're recommending to begin with that currently
25 the solicitation closes this Thursday, June 2nd, at

1 3:00 p.m. Because of those changes and the fact that we
2 still need to get a couple things clarified on that, we're
3 recommending that we extend that by one week so that we can
4 get that amendment out and then have proposals due on
5 Thursday, June 9th, at 3:00 p.m.

6 To solidify, I don't have all the questions in
7 front of me, but just to kind of reiterate some of the
8 questions, I think the first question was assembling a
9 redistricting database utilizing certified population data
10 from the 2010 census.

11 It goes on quite long.

12 What we're anticipating there is that they would
13 provide an estimated cost to integrate the American
14 Community Survey data regarding citizen voting age
15 population by race and ethnicity and to the AIRC's
16 redistricting database.

17 Again, the second question was in regard to voter
18 registration data provided by the Secretary of State will be
19 in a format that can be generated with the census geography
20 in a reasonable time.

21 Again, this gets into other areas of particular
22 elections used from local legislative to statewide races,
23 should these be -- estimates be integrated into this data
24 into the redistricting database.

25 Again, the request here is to include an estimated

1 cost to integrate the election data from the past decade
2 into redistricting database.

3 And then the county election results, we would
4 find out what data format those are in for the primary and
5 general elections of the Secretary of State. And, again,
6 the consultant would be responsible for verifying the
7 election data is accurate and complete.

8 The third question most recently received too is,
9 again, in preparing a similar database of merged census and
10 election data from the Arizona Competitive Districts
11 Coalition, questions there could be errors occurred,
12 primarily in Maricopa County. We obtain a Maricopa County
13 and other election official the necessary data to resolve
14 these issues. Since this work must stand above reproach in
15 the event of any action, we assume that we need to conduct
16 another verification of this data.

17 Again, their inquiry is if we wish for this
18 verification to be conducted and the answer to that was yes,
19 we would like a consultant to conduct any verification
20 that's necessary to ensure its accuracy.

21 The third -- the next question that is key, I
22 think, that we've seen in reviewing is there was a request
23 from a technology firm, considering the fact that when we
24 look at the scope of work, when we initially issued this, it
25 was for the integration of consulting services and mapping

1 services and your technology foundation, so any software,
2 any consulting, any PR, when you look at that scope of work,
3 intending that all those services would be to one provider.
4 So there is a question that we received as to if a partial
5 response would be acceptable, meaning that the technology, a
6 firm coming forward with just the software capabilities, not
7 the consulting piece or the PR, if that would be acceptable.

8 And that is one area I think that we do need to
9 discuss.

10 CHAIRPERSON MATHIS: Okay.

11 JEAN CLARK: Then besides discussing that issue,
12 what we also need to further discuss is the evaluation
13 criteria and the evaluation committee.

14 We conduct hundreds of procurements every year for
15 various state agencies and various political bodies, and
16 there's a lot of different things you can do with the
17 evaluation committee in the team.

18 And I know the commissioners' time is obviously
19 very precious and very limited.

20 So sometimes some of the options, not always
21 taken, not always the best approach, is to have a subset,
22 for example, of an evaluation committee of commissioners,
23 but then also someone that has the expertise from an outside
24 entity, someone that maybe possibly, you know, did -- was
25 involved in the past or maybe has the expertise in the

1 technology field.

2 So I would like to discuss your thoughts in
3 regards for the composition of that evaluation committee to
4 ensure that we've explored all options, not saying that
5 they're the best options, but that we've looked at all the
6 options available.

7 Along with then looking at the breakdown of that
8 evaluation criteria to make sure we're on the same page on
9 your weighting as to the importance on that criteria.

10 So, in summary, I probably have three things that
11 we'd like to explore.

12 One, I think further exploration on the separation
13 of software technology from the consulting piece of the RFP.

14 Secondly, the evaluation committee composition and
15 options.

16 And then third, to break down a bit further on the
17 evaluation criteria to make sure that we have your desires
18 and the proper weighting.

19 We can take those in any order you like.

20 CHAIRPERSON MATHIS: Okay. Thank you, Jean, for
21 that recap.

22 That was very helpful.

23 I'm happy to go in the order you just presented
24 them.

25 This issue of the separation on the software

1 technology from the consulting services, I'd open this up
2 for discussion among the Commission, if you have any
3 thoughts on that, and what our initial intent was when we
4 kind of created that RFP.

5 COMMISSIONER STERTZ: Madam Chair.

6 CHAIRPERSON MATHIS: Yes, Mr. Stertz.

7 COMMISSIONER STERTZ: It would be typical -- I
8 don't think engaging in multiple contracts is going to be
9 practical for managing this.

10 It's the -- it would be ideal to have a prime
11 contractor, and the prime -- if the prime contractor is a
12 software, then he should, he should bring on a consulting
13 service.

14 If the prime contractor is a consulting service
15 that is lacking in software, then they should bring on a
16 software consultant.

17 The concept of having to manage multiple firms
18 seems to me adding another layer of labor that I don't think
19 is necessary.

20 CHAIRPERSON MATHIS: Any other thoughts from other
21 commissioners?

22 COMMISSIONER McNULTY: Madam Chair.

23 CHAIRPERSON MATHIS: Commissioner McNulty.

24 COMMISSIONER McNULTY: We have -- I think when we
25 did the RFP, we inquired of Mr. Ellwanger and were assured

1 that partial bids would be acceptable under the contract.
2 And while I agree with Commissioner Stertz that I don't
3 think we want to be Norma Jean, a series of contracts
4 necessarily, I think it may be helpful to accept partial
5 bids, which was what we had originally discussed, so that
6 the contractors can find one another, maybe we find through
7 this process that the lead contractor can put together a
8 team that's useful for us.

9 I think that's what we had originally understood
10 from Mr. Ellwanger would be permitted by the bid, and I
11 would hope that we proceed that way.

12 CHAIRPERSON MATHIS: Any thoughts from other
13 commissioners?

14 COMMISSIONER STERTZ: Madam Chair.

15 COMMISSIONER McNULTY: Mr. Stertz.

16 COMMISSIONER STERTZ: Commissioner McNulty, I
17 don't -- there may have been an excerpt, and I'll have go
18 back to the documents to review it, where someone may or may
19 not choose to, I don't think that's the intent of the
20 Commission to have -- because there are many, many different
21 aspects to our RFP that we could get, we could be
22 piecemealed in like crazy.

23 It was our intent on the RFP seeking a mapping
24 consultant, we didn't look for a mapping consultant, a
25 software consultant, a field interview group, a -- someone

1 to document this. We didn't send out four or five different
2 RFPs looking for different skills and talents. We're
3 looking for one group as a prime to come in.

4 And it would be incumbent upon whoever that prime
5 would be to assemble their own team and bring them forward.

6 And if they can't -- if they don't know who they
7 are in the field, I don't want to have to be micromanaging
8 it after the fact after we get bids in to try to assemble it
9 after the fact.

10 So that's, that's my concern.

11 Where we would end up getting a bid from a guy
12 that's a great mapper and a guy that's a great field guy.
13 Well, they should meet before they put their RFP together,
14 create a strategic alliance, and submit under as a -- with
15 one of the two of them being the prime.

16 CHAIRPERSON MATHIS: I agree, Mr. Stertz. That
17 would be the ideal approach.

18 However, my concern was when we were going through
19 this RFP way back on April 29th when we all submitted our
20 edits to Don to compile, my first one was ensure that there
21 is language somewhere in the RFP that indicates that the
22 Commission reserves the right to contract with a single or
23 multiple entities to fulfill scope of work.

24 And my only reason for including that input was
25 because this is such a niche area, and so few firms can

1 actually provide the whole gamut of services. And, granted,
2 they could go out and get those subcontractors lined up
3 ahead of time, which is by far the ideal approach. And I'm
4 hoping that's what some of them did in responding.

5 But if they didn't, I didn't want to penalize
6 those who maybe came from left field, so to speak, and
7 didn't know anybody else applying, but, hey, they do have
8 this piece of expertise that they could offer up.

9 So that was my only thought.

10 VICE CHAIR FREEMAN: Madam Chair.

11 CHAIRPERSON MATHIS: Mr. Freeman.

12 VICE CHAIR FREEMAN: Perhaps this is a question
13 for Ms. Clark, but with the RFP as currently drafted, what
14 would be the ramifications if a vendor responded to it with
15 the intent of only satisfying part of the scope of work?

16 JEAN CLARK: Commissioner Freeman.

17 CHAIRPERSON MATHIS: Mr. Freeman, I can't hear
18 you.

19 JEAN CLARK: Do you want me to reiterate your
20 question?

21 VICE CHAIR FREEMAN: I can restate --

22 JEAN CLARK: I'll reiterate his question. His
23 question was --

24 CHAIRPERSON MATHIS: Oh, great. We can hear you,
25 Jean.

1 JEAN CLARK: Okay.

2 Based upon how the RFP is currently written,
3 Commissioner Freeman asked what would be the implications if
4 someone did come in with just one piece, versus having a
5 complete solution.

6 When we looked at this scope of work, I mean,
7 quite honestly, it's very infused, meaning that your
8 software, your public relations, your consulting are very
9 infused together.

10 That makes it very difficult to separate out one
11 piece from the other, is how I'm viewing it.

12 So, in the evaluation process, someone that came
13 in with a holistic approach, be it if they subbed with
14 someone else or be it they're experts in this area, should,
15 I mean, come out stronger in the evaluation.

16 And I think, and I think you can have potential,
17 we've seen it in other different procurements at times, when
18 you don't go with one solution on something in certain
19 projects you end up having finger pointing. This person
20 doesn't understand the software, you know, that the
21 consultants having to articulate and communicate versus the
22 technology people don't understand the other issues the
23 Commission is dealing with.

24 So, I mean, you can have those type of scenarios
25 too.

1 So we did -- Commissioner Mathis, there is
2 language, there's always language in our standard contract
3 language that allows us to make multiple awards, award on an
4 individual type line item basis or as a total and as a
5 whole.

6 So we always have that right.

7 However, I think when you read the intent of the
8 RFP, when you're looking at kind of what the scope of work
9 is saying, to me you're looking for a solution. And that
10 solution is coming from someone with a consulting and a
11 technology background in the software.

12 So, I mean, if we really think that we want to be
13 able to separate those two and really have a distinction,
14 you know, I would have to recommend that we look at that
15 scope of work and we really do go in there and separate it.

16 VICE CHAIR HERRERA: Madam Chair.

17 CHAIRPERSON MATHIS: Yes, Mr. Herrera.

18 VICE CHAIR HERRERA: My understanding was, and I
19 think Ms. McNulty said this, when we were, when we were
20 discussing this, we had asked this question of
21 Mr. Ellwanger, can someone -- if we wanted to get other
22 experts involved, would we have to resubmit the RFP. And he
23 said, no, the RFP that we created would run, we could
24 solicit, if we needed to, additional help that was
25 independent from the mapping consultants.

1 That was always my understanding.

2 CHAIRPERSON MATHIS: Any other thoughts?

3 Ms. McNulty?

4 COMMISSIONER McNULTY: Madam Chair, I agree with
5 that. I think we were trying to put together a list of all
6 the services we would ultimately need, but I certainly
7 wouldn't have agreed to let the RFP go in its current form
8 if I had understood that we couldn't have multiple
9 contractors bidding on pieces of it. Mr. Ellwanger made it
10 very clear that that was permitted.

11 VICE CHAIR HERRERA: Madam Chair.

12 CHAIRPERSON MATHIS: Mr. Herrera.

13 VICE CHAIR HERRERA: Now, until we start -- you
14 know, once we start getting bids and we finally hire
15 someone and that company is doing work for us, we don't
16 really know what we'll need until that that -- this whole
17 process begins.

18 It's very possible that we may need to hire other
19 people that that particular company we've hired doesn't have
20 an expertise in.

21 So I don't think we want to limit ourselves to
22 that.

23 I mean, if we end up hiring the one contractor,
24 and that contractor has all the experts we need, that's
25 fine.

1 But I don't think we wanted to limit ourselves. I
2 think we wanted to make it -- and that's why we asked that
3 question of Mr. Ellwanger, in case we needed -- that we
4 wanted that possibility of getting -- of hiring additional
5 people.

6 COMMISSIONER STERTZ: Madam Chair.

7 CHAIRPERSON MATHIS: Mr. Stertz.

8 COMMISSIONER STERTZ: I think everybody's memories
9 are a little skewed here on the reason why we wanted to have
10 the opportunity of having other folks and other information
11 coming in.

12 We know that as the process goes on that we may or
13 may not need to add services on as we see fit from outside
14 sources where the prime contractor's not going to be or is
15 not meeting a particular obligation or approach that we were
16 hoping for.

17 The concept of us hiring multiple primes or doing
18 a mapping consultant, I think, is insane.

19 And the concept of going out for a single RFP for
20 a single mapping consultant is incumbent upon this group to
21 put their team together. And they come together with their
22 biggest and best and strongest. And whoever comes back with
23 the best team, looking at Joe Kanefield right there, you've
24 got to assemble a team, you brought forward a team, and you
25 applied for this proposal based on the team that your best

1 and brightness that you had available to you.

2 My expectations are whoever the mapping consultant
3 prime is is going to apply for this is going to look at our
4 RFP, which is incredibly comprehensive and very, very broad,
5 and say, I've got to fill a lot of slots, I got a lot of
6 buckets to fill here.

7 And they better fill all those buckets if they
8 want this gig.

9 And they -- it was never, it was never my intent,
10 as being one of the primary crafters of this, to ever
11 anticipate that we're going to hire a multiple bunch of
12 people that we're going to have to administer and try to
13 marry together, which I think from an administrative
14 standpoint, a coordination standpoint, is absolutely
15 foolish.

16 CHAIRPERSON MATHIS: Okay.

17 Other thoughts from other commissioners?

18 COMMISSIONER McNULTY: Madam Chair.

19 CHAIRPERSON MATHIS: Ms. McNulty.

20 COMMISSIONER McNULTY: Only that we need to move
21 ahead with this.

22 And I -- we may each have different understandings
23 of why we did this, but I don't think our memories are
24 skewed.

25 And I think we wanted to cast a broad net. We

1 wanted to get as many people who had skills that were
2 relevant to what we're doing to come forward, so that from
3 that we could put together the -- find the best contractor,
4 put together the best team.

5 So I would hope we can just move ahead here so we
6 can get this position filled.

7 COMMISSIONER STERTZ: Well, Madam Chair,
8 Commission McNulty, I don't think that we're talking about
9 changing the process here.

10 I think the RFP is already on the street.

11 Ms. Clark has asked us for a delay because of some
12 questions that need to be answered. And the questions that
13 are being answered right now is that whether or not we would
14 accept a separate software bid versus a separate
15 consultation bid.

16 And I want -- you know, as acting as prime.

17 So we're going to be, we're going to be getting a
18 bid from a software contractor and we're going to be getting
19 a bid from a consulting service, and neither of those two
20 are going to meet the prime directives of the RFP.

21 So, in my opinion, they would be summarily written
22 off of the list because they don't meet the general
23 criteria.

24 COMMISSIONER McNULTY: We won't know until we see
25 what people submit. I think we should let people submit,

1 and then we can make a decision about what works burst.

2 COMMISSIONER STERTZ: So your suggestion is that
3 any one of these items that are on this list, anybody can
4 submit based on any one of the items on the list, based on
5 whatever criteria that they feel is pertinent to them.

6 So somebody's a really good interviewer in the
7 field, they should be going ahead and submit a proposal for
8 being a good field interviewer.

9 COMMISSIONER McNULTY: I'm proposing we did what
10 they did last time, which is what I understood we were going
11 to do this time, which is we describe what it is that we
12 need and we let people who are qualified to provide some or
13 all of that apply, and from that we get the best services
14 people.

15 COMMISSIONER STERTZ: Well, with all due respect,
16 what they did last time, we already, we already --
17 understand we're not following the protocol by virtue of how
18 we hired legal counsel.

19 So I don't want to go down the path of believing
20 that we're going down that path of hiring the mapping
21 consultant based on what they did the last time. Because we
22 didn't follow the same protocol in hiring the legal
23 consultant.

24 COMMISSIONER McNULTY: Okay. I understand your
25 point, and I think you understand mine.

1 CHAIRPERSON MATHIS: Okay.

2 So, my opinion is that we don't want to -- I'm not
3 speaking for the Commission. I'm saying I don't want to not
4 consider any responses that come in that may not be able to
5 meet the whole scope of work.

6 That is truly what my intent was when I supplied
7 my input to Don Ellwanger, and was under the impression that
8 this section 4.4 as he referred to it as in this particular
9 document covered that concern of mine.

10 So, to me, I just think, you know, ideally what
11 Mr. Stertz said is for sure the way to go. I would love it
12 if somebody comes to us with a full package and can -- has
13 the subcontractors all lined up to provide the full scope of
14 work, but I guess I don't want to disqualify somebody who
15 doesn't have all those capabilities up front from the get-go
16 and is only responding to a piece of it.

17 VICE CHAIR FREEMAN: Madam Chair.

18 CHAIRPERSON MATHIS: Any -- yes, Mr. Freeman.

19 VICE CHAIR FREEMAN: Perhaps let's take
20 Ms. Clark's comment on this colloquy.

21 JEAN CLARK: I don't know if this is appropriate,
22 but I have a question.

23 Because when you say any piece, that's where I get
24 into difficulty. Because when I read your scope of work,
25 right, there's one point that says assemble a redistricting

1 database utilizing a certified population data from the
2 state of Arizona voter registration information from the
3 Secretary of State.

4 Then you have another -- next one is provide all
5 the necessary computer equipment to house and utilize the
6 database.

7 Another piece is use the GIS software in the
8 redistricting to display mapping configurations of the
9 census units, assist the IRC in certifying the Secretary of
10 State in the establishment of a Congressional Legislative
11 districts, provide training to the IRC.

12 So when you ask me can I have someone supply, you
13 know, for pieces, which piece? Because the pieces that I
14 just read to you in my mind are each -- could -- can be
15 considered each individual, when you say you want to be able
16 to allow anyone to submit for, you know, any piece.

17 I'm not trying to be argumentative, by any means.
18 I just want to make sure that we're going down the path that
19 we can, you know, fairly evaluate these offers and that
20 offers aren't putting time and effort into something that
21 isn't, you know, feasible.

22 So, I mean, if you truly believe --

23 CHAIRPERSON MATHIS: I agreed.

24 JEAN CLARK: I mean, if you truly believe -- if
25 you believe that there's two components, I mean, the way

1 that I -- just reading this, from my understanding, it looks
2 like there's components of the software and managing the
3 software and that type of information along with your
4 consulting and PR piece.

5 You know, if you believe those are the two, you
6 know, key areas, then I suggest that we take a look at the
7 scope of work and how we can address that to make sure that
8 we're going down that path if that's the path that you
9 desire.

10 CHAIRPERSON MATHIS: Okay. I agree.

11 I'm very glad we're talking about this now before
12 we see any responses, because I think it's good to get it
13 nailed down as to what we're going to -- how we're going to
14 proceed on this.

15 Ms. McNulty, did you have a comment?

16 COMMISSIONER McNULTY: Only that I think that
17 we're going to learn from the responses too. I think that
18 to the extent that they are responsive to what we need
19 they're going to be ready to hire, and to the extent that
20 they fill only a very narrow niche that can be filled by
21 others then clearly they'll be rated lower.

22 I guess I'm a little less concerned about it,
23 Ms. Clark, because, you know, if we get six people
24 responding to this or six firms, we'll be doing great, I
25 think.

1 This is not, this is not an area where there's a
2 huge number of people that are going to be available to us.
3 And I do think we're going have to look at what they offer
4 and go from there.

5 I'm a little concerned about our selecting what
6 the categories are, although I think probably the public
7 input and the mapping and the two main categories, but
8 there's also the issue of compiling the database. And that
9 may be a third set of skills.

10 VICE CHAIR FREEMAN: Madam Chair.

11 CHAIRPERSON MATHIS: Mr. Freeman.

12 VICE CHAIR FREEMAN: My sense, though, is what is
13 giving Ms. Clark angst is that how do we evaluate the
14 responses.

15 We're not going to be comparing apples to oranges.
16 We're going to have different evaluation criteria
17 potentially for each respondent, and we could be opening a
18 can of worms for potential protest down the line unless that
19 gets ironed out.

20 And, unfortunately, given the prolixity of this
21 RFP and the detail we worked into it, I don't know how we
22 untangle these things to have, you know, responders respond
23 with a discrete -- a response to a discrete portion of the
24 scope of work.

25 Is that, is that fair?

1 JEAN CLARK: That's very true. That's very fair.

2 CHAIRPERSON MATHIS: So, I wonder if we should
3 talk -- that's a great point, Mr. Freeman. I wonder if we
4 should talk about, you know, is it even possible, I guess,
5 to come up with the evaluation criteria based, you know, in
6 an untangled manner.

7 Is there a way to do this that could allow us to
8 still entertain folks that are only giving a partial bid
9 response.

10 And I'm not sure, Ms. Clark, if you were planning
11 on us talking about evaluation criteria in today's meeting
12 or not.

13 JEAN CLARK: No, I was. I wanted to break down
14 the evaluation criteria a little bit further as to what we
15 were considering some of the main categories underneath the
16 high level categories. But I'll be honest with you, the way
17 that this is formulated, this is formulated going towards
18 the direction of, you know, a prime that's coming in with a
19 solution.

20 It's not, you know, it's not separated.

21 But it is looking at your aspects.

22 For example -- and I guess also I just would like
23 to caution you one thing. You do -- you know, in all due
24 respect, you know, it is free enterprise out there.

25 I mean, I know there's businesses all the time

1 that are coordinating with others. They know their field.
2 They know who the other players are, to be able to come in,
3 you know, with subcontractors in the various areas that
4 they, you know, are coming in to offer.

5 So there are those opportunities out there too,
6 versus us being the ones that are meshing the parties
7 together, and then down the road you're having the
8 requirement and the need to manage multiple contract
9 administration issues.

10 I mean, because the next question is going to be
11 if somebody is not performing, who is it. And then where do
12 we step in to have to mitigate that administration issues
13 and those contract performance issues.

14 But in answering your question on methodology for
15 the performance of the work, that was the highest category
16 you used, which was listed first in the RFP. What we were
17 looking at falling underneath that area was the consulting
18 approach and the services and also the public input
19 approach.

20 The second was the software they were looking at,
21 the security, the functionality, the training that they
22 would provide.

23 And then another third piece would be the time
24 line, the work plan, you know, your progress reports.

25 So what I was looking for on this was feedback of

1 those three categories underneath the main category is does
2 the Commission have an understanding or an idea to what the
3 priority would be of those three.

4 CHAIRPERSON MATHIS: Ms. Clark, can you repeat the
5 first one?

6 JEAN CLARK: Right.

7 The first one, and this is just buckets. There's
8 other, you know, pieces. But mapping it back to the scope
9 of work, the consulting approach and the services offered,
10 along with the public input approach and comments.

11 The second area was the software that was being
12 proposed, along with the security, the functionality of the
13 software, the training provided to train the commissioners.

14 And then third, looking at your time line and work
15 plan and the progress reports.

16 CHAIRPERSON MATHIS: Okay. Thanks for that.
17 That's helpful to think about it in those terms.

18 Yeah, I've been kind of wondering about
19 Ms. McNulty's suggestion earlier for all the commissioners.

20 If, if we didn't say no to partial responses, if
21 we go ahead and accept them, we, you know, we would rate
22 them differently than we would a full response, because
23 somebody who comes together with a full team, you know, from
24 the get-go that can do everything should be rated higher, I
25 would think, than somebody who doesn't and that can only

1 provide one piece.

2 But if one person does have some kind of really
3 unique thing that would be super helpful, or area of
4 expertise on which they could advise, I don't see why we
5 wouldn't at least consider it, I guess. That's my take.

6 COMMISSIONER STERTZ: Madam Chair.

7 CHAIRPERSON MATHIS: Mr. Stertz.

8 COMMISSIONER STERTZ: What were the -- what was
9 the -- we're hiring a mapping consultant. What would the
10 purpose be and how would you even craft a scoring sheet?
11 You would have to create a scoring sheet based on each
12 individual applicant based on whatever they were responding
13 to, based on how they responded to the line item of which
14 they were responding to.

15 We're not, we're not -- in other words, if we're
16 just hiring somebody that does really well at public input,
17 the level of chaos that this is going to create from a
18 contracting administration point of view, rather than to --
19 the advice that I would give if I was administering this and
20 if I was Jean Clark would be that if you were going submit
21 on a partial, find a prime -- and that you're really strong
22 in field management work, and you're terrible in software
23 work, that you go ahead and find a prime that's really
24 strong in software work and partner with them for a single
25 submittal.

1 For us to do it, for us to administer it would be
2 just chaotic. For us to even contemplate a scoring
3 mechanism is almost going to be impossible.

4 So I can't even, I can't even conceive of trying
5 to manage my way through that process.

6 CHAIRPERSON MATHIS: I would think -- this is
7 Colleen -- I would think that the scoring sheet could be --
8 we could figure out a way to do it with scoring, because if
9 we divide it into buckets, the person who is only responding
10 to one of those buckets is only going to get scored in that
11 bucket and they're not going to get -- they're going to get
12 zeros on the others.

13 And I think it's going to come out. It'll -- you
14 know, it comes out in the wash, so to speak.

15 COMMISSIONER STERTZ: So again --

16 CHAIRPERSON MATHIS: Yeah, I see what you're
17 saying.

18 COMMISSIONER STERTZ: What you're going to have is
19 you're going to have zeros. You're going to have the
20 lowest --

21 CHAIRPERSON MATHIS: Right.

22 COMMISSIONER STERTZ: -- scoring people for
23 somebody that might be really competent in one particular
24 aspect that you might want to have in, but it's not up to us
25 have to decide.

1 It would be, it would be incumbent for them to
2 partner together with a strong firm and say, listen, I bring
3 in great field expertise, and ABC mapping service, you've
4 got great mapping expertise, I want to be able to join
5 forces with you, and we together make a better team than we
6 do apart.

7 CHAIRPERSON MATHIS: Agreed.

8 Mr. Stertz, I have a question for Jean.

9 Jean, does State Procurement ever act as kind of a
10 matchmaker of sorts at all? I just wondered if firms come
11 to you guys and say, hey, we can only do X, but is there --
12 you know, can we tag along with somebody else. I'm just
13 curious.

14 JEAN CLARK: Not usually.

15 Normally it's incumbent upon themselves to do the
16 matchmaking.

17 So if we have any preproposal conferences and
18 things, they may meet some others there, but normally we're
19 not the matchmakers, no.

20 COMMISSIONER STERTZ: I don't think -- Jean, this
21 is Rick Stertz. I don't think you can legally matchmake,
22 can you?

23 JEAN CLARK: You know, I don't know that I want to
24 say I can't legally do it, because there are times when we
25 do contract for certain services and then we might contract

1 for something else independent, you know, hardware or
2 something like that, based upon how that project is going to
3 be managed or based on the needs.

4 So it does happen, but it's not necessarily that's
5 our driving, you know, factor or focus.

6 COMMISSIONER STERTZ: But typically you wouldn't
7 do that under a single RFP.

8 JEAN CLARK: Correct.

9 COMMISSIONER STERTZ: Right.

10 CHAIRPERSON MATHIS: So. Well, do we want to talk
11 about these buckets, at least, the evaluation criteria that
12 Jean just mentioned, the three? Do those make sense to
13 everybody, or, you know, would you think that they need to
14 be separated further?

15 VICE CHAIR FREEMAN: Madam --

16 CHAIRPERSON MATHIS: I thought it sounded good.
17 Go ahead.

18 VICE CHAIR FREEMAN: Madam Chair.

19 CHAIRPERSON MATHIS: Mr. Freeman.

20 VICE CHAIR FREEMAN: I just have a question.
21 Perhaps this is a question for counsel.

22 We're getting into evaluation criteria and talking
23 about the scope of work. And I don't know if we're getting
24 into areas that need to be properly discussed in executive
25 session or not.

1 CHAIRPERSON MATHIS: That's a good question.
2 Mr. Kanefield.

3 JOSEPH KANEFIELD: I think on majority vote of the
4 Commission, you can go into executive session to discuss
5 these issues.

6 VICE CHAIR FREEMAN: I guess my question was more
7 do we have to, because we're discussing confidential matters
8 and we could by virtue of talking in public session give one
9 vendor an advantage over others.

10 That's my only concern.

11 And I don't know what the answer is to that
12 question.

13 COMMISSIONER STERTZ: I think you're absolutely
14 right.

15 This is Commissioner Stertz.

16 I think Mr. Commissioner Freeman is absolutely
17 correct. Discussing scoring criteria in a public session
18 would give -- I'm not sure whether or not it would give fair
19 or unfair advantage, because it's whoever reads the minutes.
20 Okay. So, so if all the applicants are reading the minutes,
21 they're not going to be -- there is no fair or unfair
22 advantage given. It's going to be only if fair or unfair
23 advantage would be given for that matter.

24 I don't want to -- I don't want us to leave the
25 idea by skipping into executive session for any reason that

1 the concept of getting multiple -- of accepting multiple
2 proposals and then trying to re-manage those in executive
3 session into separate scoring buckets is acceptable.

4 So, in my opinion I just -- if we're going to
5 knock this out, I don't want to get into a place where we
6 start talking in public session about separating consultants
7 in a single RFP, which I think is completely wrong and
8 flawed thinking, and then go into executive session and
9 somehow get ourselves into a place where we are boxed into
10 some sort of a bucket approach where we're going to be
11 scoring these things in such a way as to create an ability
12 to hire separately out of a separate RFP -- out of a single
13 RFP.

14 VICE CHAIR FREEMAN: Madam Chair.

15 CHAIRPERSON MATHIS: Mr. Freeman.

16 VICE CHAIR FREEMAN: I don't want my comment to be
17 construed that I want to limit the public discussion at all.
18 I just -- let's discuss everything we can in public session,
19 but I'm just hoping someone will pipe up if we get -- if we
20 start to cross into an area that should -- is more
21 appropriately handled in executive session.

22 CHAIRPERSON MATHIS: It's a point well taken.
23 Thanks, Mr. Freeman.

24 I agree, because we -- when we did the legal
25 counsel RFP, we definitely discussed the evaluation criteria

1 in executive session.

2 So I appreciate you being cognizant of that and
3 raising it.

4 So, I guess to go to Mr. Stertz' point though,
5 these buckets -- I mean, I do think the scoring of the
6 evaluation criteria we ultimately choose is, is -- it
7 matters. I mean, we have to do that.

8 And I don't think it's -- it's kind of to me a
9 separate issue from whether or not we accept partial bids, I
10 guess.

11 And maybe it would help us if we did do the
12 evaluation criteria, come up -- if we agree upon how we want
13 to evaluate these folks, and then decide, you know, if
14 we're -- if we'll accept partial bids or not. But I think
15 they're kind of separate issues.

16 But, how do others feel?

17 COMMISSIONER STERTZ: Madam Chair.

18 CHAIRPERSON MATHIS: Mr. Stertz.

19 COMMISSIONER STERTZ: We crafted a very specific
20 question and answer score sheet.

21 Is there any reason why that's not being used as
22 our scoring guideline?

23 JEAN CLARK: Commissioner Stertz, we are mapping
24 that.

25 I mean, that is the intent to map those questions

1 to the evaluation criteria. So, yes. But I still need to
2 know the importance of those subfactors, so to speak.

3 COMMISSIONER STERTZ: Well, Commissioner --
4 Madam Chair.

5 CHAIRPERSON MATHIS: Mr. Stertz.

6 COMMISSIONER STERTZ: Jean, in doing so, do you
7 have a, do you have a categorization that you would bring
8 forward as a recommendation for us?

9 You brought -- you gave us the first outline,
10 which is methodology, consulting, and public input, software
11 and time line, as being your prime, your prime issues.

12 How could you see that as scoring?

13 And then what would be your second tier?

14 JEAN CLARK: Okay.

15 Let me reiterate, so you don't have my document in
16 front of you, to make sure we're on the same page.

17 That we have four evaluation criteria that were
18 stipulated in the RFP. The first evaluation criteria is the
19 method for performance of the work.

20 That's ranked first.

21 The second one is the capacity of the offeror.

22 The third then is cost.

23 And fourth is conformance to the terms and
24 conditions and instructions.

25 So that is what has been published, and they are

1 listed in their relative order of importance.

2 Okay.

3 I can provide you, and the question is, and if you
4 want me to go into this detail in public meeting, the point
5 structure that we've identified for those four categories
6 that we would propose.

7 But then underneath in particular the first two
8 categories, I think there's some subfactors that, that I
9 believe when we're looking at the scope of work fall
10 underneath those two top categories.

11 The one that I mentioned was the consulting
12 approach and the services under category one in the public
13 input piece.

14 The next would be the software security
15 functionality and training.

16 Third, the time line and work plan and progress
17 reports.

18 And then when you're talking about a capacity of
19 offeror, usually experience, I mean, key personnel. I saw
20 issues in there on political-type affiliations or conflict
21 of interest and those type of things.

22 And then also there was some financial components
23 as to any lawsuits, contract cancellation, bankruptcy.

24 CHAIRPERSON MATHIS: I have a question, Jean.

25 How do subjective criteria, so to speak, get

1 factored into an evaluation with both, or do they -- or is
2 it not possible to do that?

3 I'm just curious, things like trust or likability
4 or, you know, whatever, intangibles, so to speak.

5 I'm curious, are we able to rank responders on
6 those criteria?

7 JEAN CLARK: No, ma'am. We need to respond to the
8 proposal of the team that came forward, you know, the
9 offering, you know, how that corresponds to your pricing,
10 your time line, all the things that you stated in your scope
11 of work.

12 The evaluation needs to be, you know, in line with
13 the offers received and then the evaluation accordingly.

14 CHAIRPERSON MATHIS: So, in other words, there's
15 no room in the evaluation through this RFP process for those
16 kinds of issues.

17 JEAN CLARK: There's not a ranking of, you know, I
18 like you, I prefer you.

19 You know, I like the blue suit you're wearing
20 today and the red tie. I really don't care for that brown
21 suit.

22 I mean, no, those type of subjective factors,
23 that's what we're here to ensure that there's a fair, even,
24 you know, equitable playing field for all those that are
25 asking to do business with the State.

1 CHAIRPERSON MATHIS: Okay. That's good to know.

2 So you are, you are maybe suggesting to us that
3 for methodology, for performance of work, and capacity of
4 offeror, that the Commission might want to have some
5 subfactors underneath that on which we are evaluating people
6 specifically and consistently.

7 Correct?

8 JEAN CLARK: Correct.

9 COMMISSIONER STERTZ: And the four -- and the
10 three you are suggesting was to bundle consulting and public
11 input together, software capacity, and time line?

12 JEAN CLARK: Those were the three that I saw when
13 I was looking at it, but you obviously are more in tune to
14 the services and the needs. But those are the three that I
15 saw mapped back mostly to the methodology of approach.

16 COMMISSIONER STERTZ: When do you need our final
17 input back to you?

18 JEAN CLARK: We need to finalize this before we
19 open the proposals.

20 So, it does not have to be today. As I said, we
21 still intend to issue an amendment and then push that
22 opening back to June 9.

23 COMMISSIONER STERTZ: And the amendment would
24 include --

25 JEAN CLARK: The amendment --

1 COMMISSIONER STERTZ: -- other than the date --

2 JEAN CLARK: The answers to several of those
3 questions that I went through in the beginning are what the
4 amendment is going to address, which are cost factors.

5 And then obviously the most controversial question
6 is if we respond saying, you know, yes, they can offer a
7 partial solution, for example, just the software versus any
8 consulting services.

9 (Video connection terminated.)

10 VICE CHAIR FREEMAN: I think we just lost our
11 connection.

12 Colleen, can you hear me?

13 VICE CHAIR HERRERA: I'm still here.

14 Jose is here, but I think -- Jose, I think we lost
15 Tucson.

16 VICE CHAIR HERRERA: Oh.

17 (Whereupon, there were attempts to reconnect the
18 videoconference.)

19 COMMISSIONER McNULTY: In light of comments
20 earlier and your reference to Marty that these hearings are
21 transcribed and that the verbatim transcripts are going up
22 on our website also in addition to the minutes. The minutes
23 are just abbreviated versions of the transcripts, and the
24 transcripts are also available.

25 CHAIRPERSON MATHIS: Yes, that's a good point.

1 Did everyone hear that? Could you guys hear
2 Ms. McNulty?

3 VICE CHAIR FREEMAN: Yes.

4 COMMISSIONER STERTZ: I think that -- Madam Chair.

5 CHAIRPERSON MATHIS: Mr. Stertz.

6 COMMISSIONER STERTZ: Ms. McNulty, I think the
7 question that's come up is that minutes are always an
8 interpretation of the record.

9 And it's how minutes are crafted that if a
10 viewing, and sorting through and sifting through the
11 verbatim is -- gives you an actual picture of it, but
12 minutes give you a synopsis. And the synopsis should be as
13 accurate as possible to what the reflection of and the
14 content of and the salient points of those meetings intend
15 it to be.

16 So, I think that as we move forward that being
17 cognizant of the salient points and things that had
18 relevance are what should end up in minutes.

19 And, and I think that we have been -- in reading
20 the last past draft minutes, it was crystal clear to me that
21 there were some salient discussions that were omitted. And
22 when we get to that in our next meeting, because we do not
23 have that on this agenda, we'll make those corrections.

24 CHAIRPERSON MATHIS: Those minutes have not yet
25 been approved.

1 MARY O'GRADY: I have to remind that we're not
2 supposed to discuss the matters, that they can be discussed
3 at future meetings when they're properly noticed.

4 CHAIRPERSON MATHIS: Okay.

5 So, gosh, where were we?

6 We -- it's now 10:38.

7 And, you know, we could go into executive session
8 if commissioners feel that that would be worth doing to
9 discuss the prioritization of any subevaluation criteria
10 that we would want to include on our scoring sheet.

11 Or, I'm open to what others think.

12 COMMISSIONER STERTZ: Madam Chair.

13 CHAIRPERSON MATHIS: Mr. Stertz.

14 COMMISSIONER STERTZ: I'm comfortable continuing
15 to proceed with the way that we've been proceeding.

16 CHAIRPERSON MATHIS: In public session?

17 COMMISSIONER STERTZ: Yes.

18 CHAIRPERSON MATHIS: Okay.

19 So we would talk about -- I think what Jean would
20 need to know is, first of all, do we agree with those
21 buckets that she outlined, the three, and do we want to
22 include those as subbullets, so to speak, underneath the
23 methodology for performance of work and/or capacity of
24 offeror and in what priority.

25 And, Jean, I think you also need to know from us

1 the actual points that we would want to be assigning to each
2 of these categories; is that right?

3 JEAN CLARK: Commissioner Mathis --

4 CHAIRPERSON MATHIS: Or is that our --

5 JEAN CLARK: Well, you could identify the points
6 or we could, if you just tell us the priority level. But I
7 do caution us discussing specific points in public setting.

8 COMMISSIONER STERTZ: I agree.

9 JEAN CLARK: Because we're not required underneath
10 the code to identify what the specific weighting is, so. . .

11 COMMISSIONER STERTZ: Madam Chair, I think what we
12 were discussing was that, before we had video technology
13 issues, which gave us a very all convenient break, was
14 the -- was, Jean, you're going over the time line, you were
15 going over the schedule of events, and what would be
16 included in the addendum that you were about to issue.

17 You were going to issue an addendum that included
18 the delay of the seven days to the 9th for the bid receipt
19 and opening, and you said that you were going to be
20 answering certain questions.

21 JEAN CLARK: Correct.

22 COMMISSIONER STERTZ: And what would, what would
23 be the content of that addendum in the questions and
24 answers?

25 JEAN CLARK: The earlier questions that I read

1 that were in regards to some of the requirements that you
2 were asking of the contractors as to the validation of some
3 of the data.

4 For example, you wanted an estimated cost to
5 integrate the American Community surveys data regarding
6 citizen voting age population.

7 Secondly, you wanted a cost estimate to integrate
8 the election data from the past decade of the redistricting
9 database.

10 The different county information and Secretary of
11 State.

12 Thirdly, you wanted verification to ensure
13 accuracy of any of the census data.

14 And I believe lastly, but I do not know exactly
15 still how in responding, was the consideration of a partial
16 response.

17 COMMISSIONER STERTZ: The first three questions
18 used -- this is Commissioner Stertz.

19 The first three questions, were those questions
20 that were asked outside of the statement of the RFP?
21 Because I don't recall those three items --

22 JEAN CLARK: They were --

23 COMMISSIONER STERTZ: -- were included in the RFP.

24 JEAN CLARK: They were questions that came from a
25 potential offeror or two. I don't know how many.

1 They came from offerors.

2 COMMISSIONER STERTZ: So they're wondering, so
3 they're wondering whether or not we are also looking for
4 that specific data; correct?

5 JEAN CLARK: Correct.

6 COMMISSIONER STERTZ: Even though it was not
7 mentioned in the RFP.

8 JEAN CLARK: Correct.

9 COMMISSIONER STERTZ: Okay.

10 And then number four was?

11 Partial response.

12 JEAN CLARK: Yeah, the last is the partial
13 response.

14 COMMISSIONER McNULTY: Ms. Clark, have you sent us
15 those questions and your proposed responses?

16 JEAN CLARK: There's been e-mails flying. I don't
17 know who. I know I got copies of e-mails. So I don't know
18 who all received.

19 VICE CHAIR FREEMAN: Madam Chair.

20 JEAN CLARK: I'm sorry.

21 VICE CHAIR FREEMAN: The proposed --

22 CHAIRPERSON MATHIS: Mr. Freeman.

23 VICE CHAIR FREEMAN: The proposed responses to
24 those first three questions is yes.

25 JEAN CLARK: Right.

1 VICE CHAIR FREEMAN: Basically.

2 JEAN CLARK: Right.

3 VICE CHAIR FREEMAN: So if we're comfortable with
4 that, then what remains for us to decide is -- to wrestle
5 with is the partial response issue.

6 And then the evaluation criteria, everybody knows
7 that.

8 CHAIRPERSON MATHIS: So this takes us back to the
9 evaluation criteria question, I guess.

10 Do we want to -- are we ready to, I guess, go into
11 an executive session to discuss some of the finer details of
12 those criteria and, and the scoring.

13 COMMISSIONER STERTZ: Madam Chair.

14 CHAIRPERSON MATHIS: Mr. Stertz.

15 COMMISSIONER STERTZ: I'm still unclear about what
16 the Commission's view of a single responder to the RFP.

17 CHAIRPERSON MATHIS: Well, Mr. Stertz, I would say
18 that I'm hopeful that maybe through discussions of our
19 evaluation criteria that maybe it will somehow help us
20 determine what we should -- you know, how we, how we want to
21 proceed on that matter.

22 But, if, you know, if we want to decide on that
23 now and discuss it before talking about the evaluation
24 criteria, we can do that. But I was just kind of looking at
25 that criteria evaluation discussion as a possible path

1 forward to help us determine, you know, is it feasible to
2 entertain partial responses to this RFP.

3 COMMISSIONER STERTZ: Madam Chair.

4 CHAIRPERSON MATHIS: Mr. Stertz.

5 COMMISSIONER STERTZ: In my opinion the answer is
6 no. Unless we create -- unless we leave the option open and
7 then create some sort of a convoluted evaluation criteria in
8 executive session.

9 And that's what I have -- I'm not in favor of.

10 I'd rather, I'd rather discuss and say, yes, the
11 general criteria as outlined by Jean, it meets the intent of
12 what -- I'm not talking about going into specific numbers
13 and specific scoring numbers in public session, because that
14 would give unfair advantage.

15 But it's crystal clear that the methodology --
16 that the public, the public and the bidders are already
17 aware that method, capacity, cost, and conformance are the
18 one through four grading criteria that we're going to be
19 using.

20 It's now clear, but because this is in public
21 session, that we are discussing the methodology being
22 consulting, public input, software, and time line as being
23 four critical components of our methodology.

24 If we, if we go into executive session, start
25 breaking this into minutia, we're going to find ourselves

1 coming out of and still talking about whether or not we want
2 to split this into separate multiple consulting applications
3 for a single user RFP.

4 And I don't want to give ourselves the opportunity
5 in executive session to craft a scoring sheet that allows
6 that to happen.

7 CHAIRPERSON MATHIS: Okay. Understood.

8 Other comments from other commissioners?

9 VICE CHAIR FREEMAN: Madam Chair.

10 CHAIRPERSON MATHIS: Mr. Freeman.

11 VICE CHAIR FREEMAN: One question for Ms. Clark.

12 What happens if we take the RFP as issued,
13 establish evaluation criteria for that RFP, we take the
14 responses in, and we rate them, and we find that none of
15 them really are satisfactory to our needs?

16 Would we then be able to take the best bidder even
17 though they're an incomplete bidder and then retain other
18 consultants afterwards to fill any gaps?

19 JEAN CLARK: Commissioner Freeman, we'll evaluate
20 all the offers that come in, you know, based upon our
21 criteria. And then from there, if, for example, no one
22 really meets our need, the question is who -- I go back to
23 who is in the susceptible range, you know, who is the
24 closest to meeting our needs, can we negotiate with them, to
25 see if there's, you know, items that could be modified to

1 see if we can contract for them.

2 But, I mean, if no one comes in that has all your
3 needs, or, you know, you identify that you need something
4 else and you can only make a partial, then you can go -- I
5 mean, we're not going to tell you you can't go seek services
6 if you need something to augment.

7 VICE CHAIR FREEMAN: But they're going to --
8 they're each going to get a score.

9 JEAN CLARK: Uh-hmm.

10 VICE CHAIR FREEMAN: And I can see someone saying,
11 well, I got the highest score, even though it's a low score.

12 JEAN CLARK: Uh-hmm.

13 VICE CHAIR FREEMAN: They got the highest score.
14 We have to accept them.

15 Well, the Commission may feel that would not be
16 appropriate.

17 JEAN CLARK: From an evaluation, from an
18 evaluation team perspective, and speaking in regards to the
19 code, you would evaluate the proposals, and if none truly
20 are susceptible for award meeting the need, we have the
21 authority to not award under that contract. That's part of
22 our standard language.

23 But then the question is, is what are you going to
24 do next?

25 You know, how are you -- you're going to have to

1 change your scope of work, what are your services going to
2 change, what's your correction going to change. You're
3 going to have to repeat.

4 VICE CHAIR FREEMAN: Thank you.

5 COMMISSIONER McNULTY: Madam Chair.

6 CHAIRPERSON MATHIS: Ms. McNulty.

7 COMMISSIONER McNULTY: I'd like to ask for
8 comments from legal counsel on two points.

9 We -- when we drafted this RFP, we did not
10 expressly say that a contractor needed to provide all the
11 services.

12 A couple of us at least asked Mr. Ellwanger, and
13 he clearly advised us that this proposal permitted
14 subcontractors to bid on portions rather than all of the
15 work.

16 So I feel that to do otherwise would be changing
17 gears midstream, and I'd like a comment on that.

18 And my own perspective on this, as I've stated
19 several times in the process, has been that we are relying
20 on SPO to assist us so that we don't need to recreate the
21 process in its entirety, but at the same time we have not
22 relinquished the discretion of the Commission to hire in
23 order to obtain, you know, the best services we can get in
24 whatever manner that might prove to be. And I'm a little
25 confused about that at this point and whether -- how we can,

1 on one hand, do what we need to do and on the other hand
2 follow the process. And I'd like your help with that.

3 JOSEPH KANEFIELD: Madam Chair.

4 CHAIRPERSON MATHIS: Mr. Kanefield.

5 JOSEPH KANEFIELD: Commissioner McNulty, Mary and
6 I have looked at the questions that had come in from
7 potential bidders earlier, including the partial bid
8 response. And we -- I think our consensus was that it would
9 not be illegal for someone to submit a partial bid, but that
10 it would, it would be incumbent upon the Commission itself
11 to decide whether or not they wished to engage those
12 services depending on how you fashion the scoring and the
13 evaluations.

14 On your second point, Ms. McNulty, we -- I think
15 we also are in agreement about the prior advice that you've
16 been given, although I probably should talk about that in,
17 in addition, if necessary, about the scope under which the
18 Commission falls with respect to the procurement code,
19 though we do believe that the Commission should stay true to
20 the code as much as possible, because it will protect the
21 Commission in the event of a future -- if there ever is a
22 future challenge.

23 Mary, do you want to add anything?

24 MARY O'GRADY: No, I think Joe covered it.

25 When we went over this issue of partial offers,

1 thought it was a matter within the Commission's discretion,
2 but, again, raised issues in terms the evaluation process
3 and sort of practical issues in terms of how it would work.

4 And I do note some concern in terms of the agenda
5 today. It's not noticed for action on items. It's noticed
6 for discussion, consideration of the confidential documents,
7 which would be like the scoring information that we've
8 discussed.

9 And on these other issues, it was, I think, trying
10 to provide some guidance to Ms. Clark and others who are
11 handling this procurement.

12 But I did want to raise that concern in terms of
13 actually taking action if action is necessary.

14 It's not necessarily, if you're going to actually
15 take a vote on the matter, it's not within this particular
16 agenda item.

17 CHAIRPERSON MATHIS: Okay. Thank you, Joe and
18 Mary.

19 COMMISSIONER McNULTY: Thank you.

20 COMMISSIONER STERTZ: Madam Chair.

21 CHAIRPERSON MATHIS: Mr. Stertz.

22 COMMISSIONER STERTZ: What I just heard from our
23 legal counsel was, was yes and no and no and yes.

24 You just told us that we should follow the, we
25 should follow the procurement rules, but it's in our

1 discretion to change them at will.

2 So I don't, I don't know if that answered the
3 question that Commissioner McNulty just asked you. Because
4 she just asked you a question of whether or not we've got
5 the -- so I'm a little confused by that.

6 Under, under the, under the requirements under the
7 statement of work, it states clearly that under 2.5 that the
8 contractor shall.

9 It also allows for, in the body of the contract,
10 to bring in as many subcontractors as they see fit.

11 And we give them ample opportunity in there in
12 their offeror's response included in all of the attachments
13 to list out all of their subcontractors that they may be
14 bringing forward.

15 It would be -- for us to entertain breaking this
16 consulting service up into pieces would mean to -- for us
17 to, in my opinion, withdraw the RFP and go through another
18 RFP process again.

19 Because what I just heard from counsel is that
20 sure, when what we should be doing is following what ADOA is
21 requesting us to do, but we can change our minds later even
22 though it's going to expose us for possible further
23 conflict -- award -- what's the word -- challenges later.

24 So, in my opinion, we stay the course. We answer
25 the questions that we've got. We keep our methodology

1 organization the way that we have.

2 We're looking for a single service. And I think
3 that it's going to be -- it's the will of the Commission
4 that as time to time goes on that if we find out we're not
5 being adequately serviced we will either ask the consultant
6 that we procure to add on services that we feel there may be
7 a weakness on or that we -- or that they are smart enough to
8 know that they should add on people that -- people or
9 companies or consultants that meet the strengths that we
10 requested.

11 We went into great lengths that break this into
12 detail for a reason, to give the potential applicants enough
13 knowledge of what we're looking for.

14 So there shouldn't be a lot of question about what
15 we're looking for. It's all written into the RFP.

16 CHAIRPERSON MATHIS: I would agree with that,
17 Mr. Stertz, but I just -- from my own perspective, I can
18 tell you that from the very beginning when we were doing
19 this, and I even have it in black and white proof, because I
20 supplied my input to Mr. Ellwanger in a Word doc that he
21 then wrote on, and I was -- I wanted to ensure that the
22 Commission reserves the right to contract with single or
23 multiple entities to fulfill the scope of work.

24 That's how it's phrased.

25 And I just -- I'm hopeful that there is some kind

1 of way through the evaluation tool to be able to
2 accommodate, to at least not close the door to people who
3 want to provide a partial response.

4 And I guess my opinion hasn't changed since I
5 initially wrote these, this input, when we were drafting the
6 RFP.

7 And I was of the understanding that that is
8 possible.

9 And what we just heard counsel say was that it's,
10 quote, not illegal to have a partial response.

11 So, that's kind of -- that's my take.

12 But I'm open to other commissioners how you want
13 to proceed, or if there's other input from Mr. Freeman or
14 Mr. Herrera or Ms. McNulty.

15 VICE CHAIR FREEMAN: Madam Chair.

16 CHAIRPERSON MATHIS: Yes, Mr. Freeman.

17 VICE CHAIR FREEMAN: Going back to the point I
18 made before, perhaps if we, if we take the RFP as written,
19 because we -- if we do this, we're going to be losing too
20 much time I'm afraid.

21 We get the responses. We may get -- we may find
22 that there are no qualifying responses, based on the RFP as
23 written.

24 We may find that there is one that does qualify,
25 at least for most of it. Maybe we think there's some holes.

1 And we see in some of the other responses that are
2 inadequate with respect to the entire RFP as written, but
3 they look very strong with respect to some subset of skills
4 that we may need.

5 We can then either relet the process, looking for
6 a constellation of vendors, or go with the best responder
7 and then go back to this other responder who really only
8 responded in one particular area and hire them separately,
9 subsequently.

10 So my --

11 CHAIRPERSON MATHIS: I like that idea.

12 VICE CHAIR FREEMAN: My thought is we go into
13 executive session, develop the criteria with the RFP as
14 written, and we're going to have to take the responses as
15 they come in and deal with them later.

16 And I think to follow the code we're going to be
17 looking for primarily with a responder who's going to meet
18 all the criteria, he's going to be responsive to the best
19 score with respect to the RFP as written.

20 But then if we have holes, or if there's somebody
21 else out there who we see by virtue of their, quote unquote,
22 partial response is very strong in an area would be
23 acceptable to us, I don't think there's anything stopping us
24 within our -- the discretion granted to us under the
25 Constitution to retain that contractor subsequently.

1 VICE CHAIR HERRERA: Madam Chair.

2 COMMISSIONER McNULTY: Mr. Freeman, I agree with
3 that, except I don't think that there's a reason we would
4 have to do it subsequently.

5 I think we devised this RFP for the express
6 purpose of being able to do that as part of the process.
7 And I think it's essential that we continue on that course.

8 We did not set this up from the very beginning
9 that it was going to be a single, a single vendor process.
10 That wasn't the intention of -- that wasn't my intention.
11 As Mathis just said, it was not her intention.

12 And to change course right now, I'm not sure why
13 we would want to change course right now, unless there's a
14 subtext here that we aren't all understanding.

15 I think we said at the beginning that we wanted to
16 cast a broad net and see who was out there. And as I said
17 to Ms. Clark, there aren't a lot of people out there who do
18 these kinds of services.

19 And I feel strongly we just need to see who there
20 is, answer the questions, do our scoring, and the rest of it
21 will take care of itself.

22 Obviously if someone is very strong in one
23 particular area and not in others, we need to have a scoring
24 criteria that takes that into account.

25 If someone has all of the ability to do everything

1 but isn't strong in all of those areas, then I think we need
2 to make sure we take that into account also.

3 COMMISSIONER STERTZ: Madam Chair.

4 CHAIRPERSON MATHIS: Mr. Stertz.

5 COMMISSIONER STERTZ: We are going back, with all
6 due respect to Commissioner McNulty.

7 And, again, Madam Chair, there is -- what
8 Commissioner Freeman said is exactly the standard that we've
9 got the opportunity to go forward with.

10 If we are going to accept multiple and partials
11 and we are going to have to create multiple and partial
12 scoring sheets for each individual line item based on
13 whoever, whatever the criteria is that they choose to
14 respond to, I think that it is incumbent upon us to stay
15 forward -- to move forward with the RFP as it's currently
16 crafted, get the responses back.

17 If people want to respond to individual line
18 items, it is their choice to do so.

19 Okay.

20 But we cannot create multiple scoring sheets that
21 are going to be for individuals that want to respond to
22 individual line items.

23 They will score zeros, and they may score
24 extremely high in one line item.

25 Okay.

1 That will preclude them from even being discussed.

2 I think that the approach that
3 Commissioner Freeman just stated is prudent, practical,
4 organizational, has strong methodology, you know, a strong
5 basis in the contracting RFP that is already out there.

6 I think that -- and it does not interfere with
7 what your perception is and your perspective going forward
8 that they're -- that we want to get the best and the
9 brightest, but we -- but it is our intent or else would we
10 have written multiple RFPs.

11 VICE CHAIR FREEMAN: Madam Chair.

12 VICE CHAIR HERRERA: Madam Chair.

13 CHAIRPERSON MATHIS: Mr. Freeman.

14 VICE CHAIR FREEMAN: We hear you, Jose. You can
15 go next.

16 I don't disagree with anything that
17 Commissioner McNulty said.

18 We had lots of extensive discussions about this
19 RFP. They were -- most of those discussions were in
20 executive session so I don't want to comment about all the
21 things that were said about it.

22 But I think the problem that we're being
23 confronted with from procurement today is we kind of have to
24 deal with what's written and what's out there.

25 And, to me, to go forward as quickly as possible,

1 as time is of the essence, as outlined is maybe the
2 simplest, cleanness way to move forward.

3 VICE CHAIR HERRERA: Madam Chair.

4 CHAIRPERSON MATHIS: Mr. Herrera, did you have
5 something too?

6 VICE CHAIR HERRERA: Yes, I did.

7 Madam Chair, I think I said this before, but we --
8 I thought it was pretty clear to me when we were having this
9 discussion from the beginning that we were not going to
10 submit another RFP, that this RFP was enough to gather or
11 solicit any type of expert in this area, that that
12 individual did not have to submit to -- the request was
13 every part of RFP, and that was from either when the RFP was
14 due or maybe even later on when we, when we found out that
15 we needed other experts.

16 And I never thought that we would find one
17 organization that was an expert in everything that we were
18 looking for.

19 I always assumed that, yeah, that we probably will
20 be needing different people. That there might be one firm
21 that does the majority of the things, but they will not do
22 all of them.

23 So I guess I'm at a loss now we're making a
24 change.

25 Because obviously when people read the RFP, they

1 will be submitting for things that they're experts on,
2 because that's how the RFP was written.

3 VICE CHAIR FREEMAN: Madam Chair.

4 CHAIRPERSON MATHIS: Mr. Freeman.

5 VICE CHAIR FREEMAN: Well, I generally don't
6 disagree with that comment by Commissioner Herrera, but
7 different things were said about this RFP in executive
8 session.

9 And that's all I'll say on that, because I want to
10 be careful. We're talking about things we talked about in
11 executive session.

12 VICE CHAIR HERRERA: I understand.

13 But, Madam Chair, I think what we don't want to do
14 is limit ourselves.

15 And I think we limit ourselves by saying no to the
16 individuals that are submitting, you know, pieces of the
17 RFP, responding to certain pieces of the RFP that they're
18 experts on. And I would welcome those individuals
19 submitting to the RFP for those specific pieces, because we
20 don't want to limit ourselves.

21 If we end up hiring somebody that isn't expert in
22 everything, then we have to go back out again.

23 VICE CHAIR FREEMAN: Madam Chair.

24 CHAIRPERSON MATHIS: We're having trouble hearing
25 Mr. Herrera, so you know.

1 VICE CHAIR FREEMAN: Perhaps I can restate it.
2 He's basically saying we don't want to limit
3 ourselves and retain flexibility.

4 And I agree with that sentiment.

5 And I don't think, at least my comments weren't
6 meaning to suggest that we would limit ourselves.

7 And there is no subtext as far as I'm concerned.
8 I think we need to deal with the RFP as written. We're
9 going to have to accept it as written unless we want to
10 withdraw it and redraft it, which is going to take some
11 time, and then reissue it.

12 We deal with it as written. We're going to have
13 to develop some revaluation criteria and then look at the
14 responses.

15 And I don't think that means we're limited to just
16 one consultant or one contractor ultimately.

17 Maybe there is one, but maybe not.

18 I think to move forward as quickly as possible
19 we're just going to have to deal with what we have, with the
20 cards that we've been dealt.

21 The cards we've dealt ourselves, I suppose.

22 CHAIRPERSON MATHIS: Okay. I agree. I don't want
23 to redraft this RFP.

24 I'm sure SPO doesn't want to either.

25 I think we have -- our purpose in creating such a

1 detailed RFP was to kind of lay out for everybody, hey, we
2 have a bunch of needs here, this is a huge mission, and we
3 need help.

4 And so I do think that, you know, trying to carve
5 up the RFP or anything like that is not necessary, but I do
6 still believe that the initial intent was to allow people to
7 apply to -- in their areas of expertise if they didn't
8 have -- you know, if they couldn't provide everything.

9 So I'm hopeful that we could do as Mr. Freeman
10 suggested and come up with, you know, a way to evaluate
11 somebody who maybe is only wanting to supply the outreach
12 component of this or, you know, whatever subcategories we
13 decide on.

14 I still think there's a way to do this, just
15 through the evaluation tool, if we agree ahead of time that
16 if there is a partial response and somebody, you know,
17 knocks it out of the park on one aspect of it, that there
18 ought to be a way to bring them into the fold, if we all
19 agree that they should be.

20 COMMISSIONER STERTZ: Madam Chair.

21 CHAIRPERSON MATHIS: Mr. Stertz.

22 COMMISSIONER STERTZ: Bringing them into the fold
23 I think is at our discretion.

24 And I think that the methodology should be based
25 upon a single prime that allows us to have a single

1 criteria.

2 I think that to answer question number four for
3 Jean Clark would be that, yes, clearly submit all so that we
4 have a grouping of all potential applicants and all
5 potential categories to state clearly what their levels of
6 expertise are, so that we have an inventory of applicants
7 that if we find that we have a numbers one and two, as we
8 grade them, that fit the majority, but we find some
9 weaknesses, that we may, through the ADOA process, may ask
10 those two firms to potentially work together.

11 But if we want to say that we are going to grade
12 and create different scoring sheets for individuality, I
13 think would be --

14 CHAIRPERSON MATHIS: Right.

15 COMMISSIONER STERTZ: -- impossible.

16 CHAIRPERSON MATHIS: I agree. I agree.

17 COMMISSIONER STERTZ: And I think that that meets
18 everybody's goal.

19 CHAIRPERSON MATHIS: Do others have a thought on
20 that, thoughts on that?

21 VICE CHAIR FREEMAN: Madam Chair.

22 CHAIRPERSON MATHIS: Mr. Freeman.

23 VICE CHAIR FREEMAN: I would move that the
24 Commission go into executive session for the purpose of
25 developing or discussing with ADOA the evaluation criteria

1 for the mapping consultant of the RFP.

2 CHAIRPERSON MATHIS: Is there a second?

3 VICE CHAIR HERRERA: Madam Chair, before we --

4 COMMISSIONER McNULTY: Second.

5 VICE CHAIR HERRERA: -- well, keeping in mind that
6 I do have a meeting that I need to go to --

7 CHAIRPERSON MATHIS: Okay.

8 VICE CHAIR HERRERA: -- that's coming up shortly.

9 CHAIRPERSON MATHIS: I couldn't hear that last
10 part.

11 VICE CHAIR HERRERA: Madam Chair, I do have a
12 meeting that's coming up at 11:30 that I have to prepare
13 for, so. . .

14 CHAIRPERSON MATHIS: Okay.

15 VICE CHAIR HERRERA: I -- I will not be able to
16 participate, but I want to be part of the discussion.

17 VICE CHAIR FREEMAN: Commissioner Herrera, when is
18 your meeting over?

19 VICE CHAIR HERRERA: It is over by 12:30. It's
20 about an hour meeting.

21 VICE CHAIR FREEMAN: Well, then should we recess
22 for lunch perhaps so Commissioner Herrera can participate?

23 CHAIRPERSON MATHIS: Unfortunately I have a 1:30
24 meeting, but. . .

25 COMMISSIONER STERTZ: Madam Chair?

1 CHAIRPERSON MATHIS: Yes.

2 COMMISSIONER STERTZ: I have a suggestion. Is
3 Jean Clark still available?

4 VICE CHAIR FREEMAN: She's here.

5 COMMISSIONER STERTZ: Okay.

6 Would Jean be able to provide us, based on the
7 concept of a prime, a prime response approach to the RFP,
8 provide us using the four level of method, capacity, cost,
9 and conformance, and a typical scoring with an evaluation
10 criteria similar, would you be able to provide us and
11 distribute it to us, a -- what recommendations you would
12 have based on all that you've heard this morning?

13 JEAN CLARK: Yes, sir.

14 COMMISSIONER McNULTY: Ms. Clark, I was going to
15 come at it from a different perspective and ask you, given
16 that you've heard from Mr. Herrera and Ms. Mathis and I that
17 we went into this with the very clear understanding that
18 this RFP permitted everyone who had expertise in whatever
19 relevant areas to submit, to propose to us a way to
20 structure the criteria so that we could weight accordingly.

21 JEAN CLARK: I can try it.

22 My first question, though, is if someone could
23 answer me, when you talk about people being able to respond
24 for each area or buckets or areas, is what is your
25 definition of that when I read the scope of work to make

1 sure that I'm on the same page that you are?

2 I mean, is it software? Is it consulting? Is it
3 public relations? Or, I don't know.

4 So I get concerned when I keep hearing I want to
5 meet people to be able to do pieces, but I don't know what
6 those pieces are.

7 COMMISSIONER McNULTY: I think the buckets are
8 generally as you described them: Software, public outreach,
9 software capabilities -- mapping capabilities, public
10 outreach -- and what was the third one that you had given
11 us?

12 COMMISSIONER STERTZ: I don't know.

13 COMMISSIONER McNULTY: Oh, time line. Well, our
14 time line kind of is what it is.

15 I really think that the two really key areas are
16 mapping -- the mapping ability and expertise and the public
17 outreach.

18 COMMISSIONER STERTZ: Again, Madam Chair.

19 CHAIRPERSON MATHIS: Mr. Stertz.

20 COMMISSIONER STERTZ: With all deference to the
21 Chair, Commissioners Herrera and McNulty, it's crystal clear
22 to me that when someone comes back and they only bring back
23 a proposal where they're proposing their software skills
24 that they are going to score extraordinarily high in
25 software. Software being placed in methodology they're

1 going to score, they're going to score zeros everywhere else
2 but they're going to score high in software.

3 I can't conceive a scoring document that cannot
4 become arbitrary and capricious in the way that you would be
5 able to give capacity, cost, conformance, other than that.

6 And I think that it's ill conceived to try to
7 approach the project like this, where you are trying to
8 micromanage subconsultants coming in, again, let them come
9 in, if they're strong in software, let them find a good
10 mapping consultant -- or a good outreach consultant. If
11 they're great in outreach, let's have them find a good
12 partnership to go with them.

13 It's done every day. ADOA reviews multi-party
14 contracts every day.

15 And if they don't have the -- if it's going to be
16 incumbent upon us to pick and choose and to try to nitpick
17 each one of these individuals, it's going to be exactly what
18 you described, Madam Chair, which is going to be subjective,
19 which frankly is -- throws this whole process into a place
20 that's -- it's going to be not be able to withstand the
21 test.

22 VICE CHAIR HERRERA: Madam Chair.

23 COMMISSIONER STERTZ: I'd rather play, I'd rather
24 play by the rules that we set forth from the beginning. I
25 believe and trust that what your basis was, that there is

1 going to be -- I believe that there's going to be a need for
2 multiple consultants as there was in the previous
3 Commission.

4 There was a need for multiple consultants in the
5 previous Commission.

6 And they were hired at-will.

7 And I don't believe that that's going to change.
8 But we need to get a prime on board to begin doing the
9 yeoman's work that is processed, and the RFP crafts what
10 that says.

11 And I don't want to be, I don't want to be trying
12 to micromanage this process at this time. It doesn't make
13 any sense.

14 VICE CHAIR HERRERA: Madam Chair?

15 COMMISSIONER McNULTY: The more we talk about it,
16 the more it comes into focus really how we ought to do this.

17 What if we were to -- we've got the four criteria,
18 and I realize this is kind of a comment and a question for
19 Ms. Clark. We've got methodology for performance of work,
20 capacity, cost, and terms and conditions.

21 So if, if, just for the sake of discussion, we
22 agree that the two big buckets are mapping capability and
23 public outreach capability, then we put those two buckets
24 under methodology for performance of the work.

25 So those are the two main categories that fall

1 under that.

2 The other three things apply to both equally.

3 And then, under those -- so those would be, and
4 I'm just, you know, thinking out loud here, those would be
5 rated sort of equally, because they're, you know, equally
6 important and they both come under statement of work. Our
7 methodology --

8 VICE CHAIR FREEMAN: Madam Chair. Madam Chair.

9 CHAIRPERSON MATHIS: Mr. Freeman.

10 VICE CHAIR FREEMAN: I apologize for interrupting.

11 My concern is now we're talking about the criteria
12 used to rate and everyone is sort of a little on edge that
13 we're doing it in public session.

14 Perhaps maybe counsel can comment on whether it's
15 appropriate for us to have this discussion in an open
16 meeting.

17 MARY O'GRADY: To the extent that we want to
18 protect the confidentiality of our criteria, we should have
19 that more detailed discussion in executive session if you
20 want to ensure the confidentiality there.

21 And there was a motion made to go into executive
22 session on that point.

23 CHAIRPERSON MATHIS: Yeah, and it was seconded by
24 Ms. McNulty. I'm not sure if you guys could hear that.

25 Just one quick point. I'm wondering, is it

1 possible to have, as a subpoint, I don't think -- I think
2 this can be said in public session, just that what if we
3 give responders who are prime contractors and are -- you
4 know, meet, I guess, that one of the subcontracts -- the
5 subcontract -- how do I say that, the subpoints on which we
6 evaluate them.

7 That if they actually are providing a response
8 that kind of is the whole package, you know, that's
9 something on which we rate them and we give them points for
10 that, that we give them credit for that --

11 VICE CHAIR HERRERA: Madam Chair, we have a firm,
12 two firms, maybe even three firms applying, that are
13 applying for the total package, but that doesn't mean that
14 they will be the strongest in all the areas.

15 It's a strong possibility that firm A applies
16 fulfilling -- wanting to fulfill all needs and they're weak
17 in a few areas that other single individuals can meet better
18 than they can.

19 And to me I don't see why we should have to force
20 the little -- the one individual to merge into the other one
21 for the sole purpose of meeting our needs when we can just
22 go forward to hire them to do that one thing.

23 COMMISSIONER STERTZ: Madam Chair, as someone that
24 has responded to public RFPs many, many, many, many times,
25 it is always incumbent upon the person, the prime, to pull

1 together the best qualified team that they've got available
2 to fill all the buckets. The buckets are all laid out in
3 the RFP.

4 And if someone wants to respond, the only question
5 that Ms. Clark has is will we accept a proposal that does
6 not fulfill all the criteria in the RFP.

7 I think that it has been stated ad nauseam that it
8 would be okay to accept those, but I don't want to create a
9 separate scoring sheet, because that breaks the entire
10 protocol of what the RFP is laid out for.

11 Unless we're going to go back to zero, which is
12 the only way that I would endorse that, okay, that we're
13 going to break this thing up into its bits and pieces, that
14 we go forward with the RFP as it stands, that we accept
15 the -- we accept anybody that wants to submit on partials,
16 based on their own specific.

17 But as a procurement officer I can only imagine
18 that you would give recommendation to them and say have you
19 not talked to any primes that you could partner with,
20 because this is a single source, single user contract that
21 we've got and it would be incumbent upon you to partner with
22 them. Yet, however, this group is willing to accept those
23 proposals so that we've then got them on file so that they
24 can review your criteria and credentials.

25 VICE CHAIR HERRERA: Madam Chair, I don't think I

1 ever said or even -- that was never my understanding that
2 this is a single user contract.

3 Never did I -- I don't think that ever even came
4 up.

5 I think we all knew that we may not hire someone
6 that does it all, but that was always that possibility, and
7 that we would go and hire other individuals to meet those
8 needs that, you know, that need to be met.

9 And that to me, that's, from the beginning, that's
10 what this RFP was doing.

11 COMMISSIONER STERTZ: Madam Chair,
12 Commissioner Herrera, I don't know where you've been,
13 because this thing, this is a single RFP looking for a
14 mapping consultant that meets a whole batch of criteria.

15 So I don't know where you've been that --

16 VICE CHAIR HERRERA: I've been here. I've been
17 here now.

18 We haven't even gotten any proposals, but you
19 assume that we're going to find someone that meets all our
20 needs. I don't -- I guess I'm not understanding where you
21 coming -- unless you know for a fact, you know someone
22 that's applying that meets all that criteria.

23 I don't. I don't. I have no clue.

24 Because we haven't reviewed any of them.

25 JEAN CLARK: If I can speak just for a couple

1 minutes.

2 You know, I understand that there's some
3 differences in thoughts here, but, I mean, I am trying to or
4 we are trying to mesh this with the procurement code.

5 And the thing is, is that when we read, and I read
6 the scope of work, it looks like you are looking for someone
7 that comes forward with software capability, mapping,
8 outreach, and understands the entire package, knows how the
9 software works, can train you on the software, can do
10 outreach and explain it to the public, and can do consulting
11 on top of that along with having the mapping capability to
12 draw those maps.

13 That's what I read.

14 That's just -- I wasn't part of the previous
15 conversations or any of the conversations or what the intent
16 was.

17 But reading it as a layperson, reading your scope
18 of work, that's what it appears.

19 If you really believe that you want pieces -- and
20 maybe someone will not meet all those needs, someone may not
21 come in and be a slam dunk 100 percent on every area. And
22 then if something is missing, you're going to have to
23 identify what you want to do with that.

24 But if you really intend to divide this up and say
25 someone can come in with just a software package and offer

1 their software package and that is going to be looked at
2 just as equally as someone that's going to have the
3 consulting, understand the software, and do all that, that's
4 where I think you're going to have problems. And what's
5 going to happen is that that's when you're going to be
6 determined arbitrary and capricious.

7 Because from a procurement officer perspective,
8 you know, why did we not give this software, you know, to
9 this one company. Well, because I didn't like him and I
10 didn't like that red tie today.

11 You know, if they score really strong on that
12 software.

13 When really in reality they don't have the
14 consulting capabilities or the outreach capabilities.

15 But, I mean, I obviously can't speak for the
16 Commission. I'm just trying to navigate you through this
17 process.

18 But I have to say I'm getting extremely concerned
19 with these conversations and this dialogue. And from what
20 I'm hearing is, is that the lack of under -- you know, or
21 unity as to which direction we're going, because that is
22 only going to open us up into any protest or anything on the
23 administrative side.

24 You know, I --

25 VICE CHAIR HERRERA: I have a question,

1 Madam Chair.

2 If once we start receiving RFPs, and some RFPs are
3 from individuals that are submitting to meet some of the --
4 some of our needs, then, then our RFP wasn't that clear
5 then.

6 If we are getting proposals from firms that are
7 meeting all our needs and then we're not getting proposals
8 from individuals meeting certain of our needs, then the
9 proposal was clear to them.

10 So I guess -- have we received any proposals?

11 JEAN CLARK: No. Definitely not.

12 VICE CHAIR HERRERA: We got to start receiving
13 them, and that would answer our question.

14 If we're getting proposals from all these, you
15 know, individuals meeting certain needs and not the entire,
16 not the entire enchilada, then did we really create the
17 proposal that is understood, that this is what we want?

18 Am I making sense? Because I want to make
19 sure that -- if we haven't gotten any proposals, we haven't
20 reviewed any, so all we know is that we'll be getting
21 proposals from only firms that will be meeting all of our
22 needs and not from those individual pieces.

23 JEAN CLARK: We have not received any proposals --
24 we will not receive any proposals, as we talked about, until
25 June 9th when the formal opening.

1 But I can inform you from past experience on
2 different procurements that if you don't have some of the
3 key salient understanding of the direction you're trying to
4 go, we're not going to have success.

5 I don't think you're going to feel success, and
6 we're not going to feel success probably on our side going
7 through, you know, the procurement process.

8 VICE CHAIR HERRERA: You know, I have to go to my
9 meeting. Can we reschedule this to 12:30?

10 COMMISSIONER McNULTY: I can.

11 CHAIRPERSON MATHIS: I can for 45 minutes, or we
12 can recess until later this afternoon after my meeting. I
13 don't know what others' schedules are.

14 COMMISSIONER McNULTY: I can do that.

15 CHAIRPERSON MATHIS: I'll probably be in my
16 meeting until 3:00.

17 VICE CHAIR HERRERA: Well, I need to leave. Give
18 me any time --

19 THE REPORTER: One at a time, please.

20 CHAIRPERSON MATHIS: We'll have to continue
21 discussion on how we want to proceed, whether we want to go
22 into executive session to discuss more details on this
23 evaluation criteria or continue the discussion in public
24 about how we want to proceed on working with SPO on this.

25 COMMISSIONER McNULTY: Madam Chair.

1 CHAIRPERSON MATHIS: Ms. McNulty.

2 COMMISSIONER McNULTY: Ms. Clark, do we need to
3 give you direction on the responses to the questions on the
4 amendment to the RFP?

5 And, if so, counsel, can we take action on that
6 now?

7 JEAN CLARK: That's, that's what we need.

8 We need to be able to respond to these offerors,
9 and we do have questions that are on the table that we need
10 to get out and respond in an amendment to them.

11 COMMISSIONER McNULTY: Counsel, what do we need to
12 do in order to give Ms. Clark the direction she needs on
13 that?

14 MARY O'GRADY: I think we have the direction on
15 questions one through three.

16 It's not clear to me what the direction is as to
17 question four.

18 But, again, this agenda wasn't noticed for
19 particular action. It was noticed for a discussion, which
20 we've been having.

21 And so we can continue to discuss that item and
22 maybe we go back to that after the executive session
23 discussion of the evaluation criteria. But if, but if the
24 Commission actually wants to take formal action on
25 question four, that would require a separate meeting with a

1 different meeting notice.

2 COMMISSIONER McNULTY: Madam Chair, I would move
3 that then that we recess, that we schedule a separate
4 meeting in which we can, if necessary, take action in order
5 to give Ms. Clark direction on that, and that in the interim
6 we each look at the scoring criteria, come up with our best
7 proposal on how to go about that, and in our next session
8 give Ms. Clark direction, and then go into executive session
9 on the criteria.

10 COMMISSIONER STERTZ: Madam Chair.

11 CHAIRPERSON MATHIS: Mr. Stertz.

12 COMMISSIONER STERTZ: I agree with almost all that
13 Ms. McNulty just said except that I'd like to have Ms. Clark
14 present -- send out a scoring criteria which she feels is
15 going to -- it meets with the outline of the current RFP as
16 it currently stands, knowing with the -- that if the
17 question to answer forward would be, yes, we would be
18 willing to accept partial submittals, how those submittals
19 would be cataloged.

20 CHAIRPERSON MATHIS: Okay.

21 COMMISSIONER STERTZ: Ms. Clark, does that, does
22 that make sense?

23 JEAN CLARK: Yes, sir.

24 COMMISSIONER STERTZ: Thank you.

25 CHAIRPERSON MATHIS: Any other discussion on this?

1 COMMISSIONER McNULTY: Do we have a second?

2 CHAIRPERSON MATHIS: I don't, I don't think --
3 okay. We need to take a motion. Oh, you're right.

4 COMMISSIONER McNULTY: Okay. Well, forget that
5 then. Forget the motion part of what I just said.

6 And just to follow up the comment to Ms. Clark, at
7 least in the minds of some of us, we weren't thinking of
8 having proposals line item by line item or proposers by line
9 item by line item.

10 We were thinking more along the lines of proposers
11 by bucket, as you described them. Because there may be
12 people out there who can do the mapping part, who consult
13 with us, who know how to do the software, who know how to do
14 that part of it.

15 And then there may also be people who do the
16 public outreach part.

17 And they may not be the only two categories, but
18 more in broad brush like that.

19 Just, you know, following up on Mr. Stertz'
20 proposal -- Mr. Stertz' comment about doing the scoring
21 criteria.

22 I don't think what we're looking for is scoring a
23 separate scoring sheet for all the line items. We're just
24 looking for buckets.

25 COMMISSIONER STERTZ: I would check, the question

1 would be how do we catalog.

2 Again, again, the idea of a single RFP allows a
3 proposer to have an opportunity to bring in people where
4 they do not have within their team strengths.

5 So they -- the way we crafted this RFP, it said,
6 you know, we want you to have all of these strengths, and if
7 you don't have them in your prime, go out to outsource
8 people and tell us where those skills are going to be coming
9 from.

10 We've given the proposal a really broad brush to
11 be able to bring in all kinds of talented people that can do
12 various things that they may not have.

13 They're a great mapper but they're a crummy
14 outreach person, they're going to bring in an outreach
15 company and they're going to bring them in under their
16 single contract.

17 I think that what, what the -- there may be some
18 anomalies that will come up where someone chooses to not
19 choose to go with a prime and they want to submit sole and
20 separately.

21 Our view of this would be once those are received,
22 how they would be cataloged, because they can certainly not
23 be scored because they would all score at the bottom of the
24 list.

25 And I don't think that is the intent of three of

1 the five commissioners to summarily dismiss those that do
2 not fully comply.

3 Is that correct?

4 CHAIRPERSON MATHIS: Sounds accurate to me.

5 COMMISSIONER STERTZ: Thank you.

6 JEAN CLARK: When is this supposed to be prepared
7 by?

8 COMMISSIONER STERTZ: The soonest you can give us
9 a quick outline and have it distributed through Mr. Bladine
10 the better.

11 JEAN CLARK: So it's not for a meeting.

12 CHAIRPERSON MATHIS: And just to add to what
13 Mr. Stertz said, on the capacity of offer, for instance, I
14 do think that it warrants, you know, completeness is a
15 criteria of this, you know, something we could rate on.
16 Because I think there's definite advantage to having
17 somebody who can manage this all, from an administrative
18 standpoint, as he said earlier.

19 So I think that, you know, somebody, you know, who
20 does come forward with the whole enchilada, as Mr. Herrera
21 said, that, you know, more power to him. That's great
22 because it does mean less administrative burden for all of
23 us.

24 So, to me that's a criteria, a subcriteria that
25 could be considered under capacity of offer.

1 And I just throw out.

2 VICE CHAIR FREEMAN: Madam Chair.

3 CHAIRPERSON MATHIS: Mr. Freeman.

4 VICE CHAIR FREEMAN: Just, just dealing with what
5 we have in front of us, the RFP that has been issued and the
6 concerns raised by ADOA, we could develop the evaluation
7 criteria today for our use in evaluating the responses.

8 And of course the responses we're going get based
9 on the way the RFP is written have to be comprehensive.

10 And if someone wants to give us a response, which
11 they can, they're legally able to do, that focuses on one
12 particular area, they're going to get a lower score.
13 They're going to be, as Commissioner Stertz said, near the
14 bottom of the list.

15 That doesn't mean if we could still contract with
16 them later if, one, we get no responses that really
17 adequately respond to our RFP, or, two, we get a response
18 that pretty much responds to most and we think we do want to
19 hire them as, quote unquote, the general, but we could still
20 go and subsequently hire this other contractor to fill a
21 particular need.

22 We could do that all today or later this
23 afternoon, I think, without having to take any action, and
24 move forward with evaluating the responses when they come in
25 on June 9th.

1 CHAIRPERSON MATHIS: I agree.

2 COMMISSIONER McNULTY: I agree. That sounds good.

3 COMMISSIONER STERTZ: Cool.

4 CHAIRPERSON MATHIS: So, do we want to recess
5 until -- poor Mr. Herrera is probably -- I think he's maybe
6 already gone.

7 VICE CHAIR FREEMAN: He's gone, yeah.

8 COMMISSIONER McNULTY: Because his meeting is at
9 11:30.

10 CHAIRPERSON MATHIS: What are people's schedules
11 like this afternoon?

12 It sounded like Mr. Herrera could be back at
13 12:30, but I have to be at something at 1:30, so I'm happy
14 to meet for a short period if that's what everybody wants to
15 do.

16 But, otherwise, would 3:30 work for people?

17 COMMISSIONER McNULTY: It works for me. Does it
18 work for Ms. Clark?

19 JEAN CLARK: I can make it work, but I have to
20 leave by 5:00 today. I apologize.

21 COMMISSIONER McNULTY: Thank you.

22 COMMISSIONER STERTZ: Well, I'm supposed to be in
23 bed.

24 CHAIRPERSON MATHIS: Okay. And, counsel, does
25 that work for you?

1 And Mr. Freeman?

2 MARY O'GRADY: 3:30 will work.

3 VICE CHAIR FREEMAN: That's fine.

4 CHAIRPERSON MATHIS: We adjourn -- just take a
5 recess, sorry. And it's now 11:34, and we'll come back at
6 3:30 p.m.

7 COMMISSIONER McNULTY: I think that we should make
8 that subject to getting confirmation of Mr. Herrera being
9 available.

10 CHAIRPERSON MATHIS: Okay. Subject to
11 confirmation that Mr. Herrera is available at 3:30, which
12 we'll find out by 12:30 -- or at 12:30.

13 MARY O'GRADY: Was the motion and second
14 withdrawn?

15 CHAIRPERSON MATHIS: Yes.

16 VICE CHAIR FREEMAN: I'll withdraw the motion.

17 CHAIRPERSON MATHIS: Great.

18 Okay. It's 11:35. So we'll take a recess for
19 four hours until 3:30.

20 I thank everyone for your time and see you this
21 afternoon.

22 (Recess taken.)

23 CHAIRPERSON MATHIS: I think we're all here, so we
24 will come back out of recess.

25 It's 3:36 p.m.

1 And we've been in the midst of discussing agenda
2 item two, which is discussion and consideration of
3 confidential documents associated with mapping consultant
4 RFPs.

5 And I think we've had an extensive discussion
6 already, but I know there's still some outstanding issues
7 that we need to get through today.

8 And I should remind everyone that we have a hard
9 stop at 5:00 p.m. because I think Jean Clark needs to be
10 somewhere, and she's part and parcel to this discussion.

11 So we want to be mindful to be as efficient as we
12 can in our discussions this afternoon.

13 So with that, I mean, I would entertain a motion
14 to go into executive session so that we could discuss the
15 evaluation criteria further, because there are some aspects
16 to it that are confidential until this gets decided,
17 especially the scoring. And --

18 COMMISSIONER STERTZ: Madam Chair.

19 CHAIRPERSON MATHIS: -- see what people say.

20 Mr. Stertz.

21 COMMISSIONER STERTZ: Before we take it into
22 executive session, I want to first talk about how we --
23 where we, where we left off and the reason why we would need
24 to enter into executive session.

25 CHAIRPERSON MATHIS: Well, I would -- and I

1 welcome others to chime in after I give my recap of it, but
2 my take is, as you pointed out before the executive session,
3 a majority of the commissioners has indicated an interest in
4 accepting partial bid responses so that we can at least get
5 an inventory of everybody who sends something in.

6 And actually during our time away, I was noticing
7 within the RFP itself, under number of types of awards, it
8 outlines that the State reserves the right to make multiple
9 awards or to award a contract by individual line items or
10 alternatives by group of line items or alternatives or to
11 make an aggregate award or regional awards, whichever is
12 most advantageous to the State.

13 And so it seems like this RFP is set up so that
14 were we to decide as a Commission that there was a good
15 compelling reason to award a piece of this particular RFP to
16 a certain responder, because of their outstanding expertise,
17 that we could do that.

18 So it seems like, accepting RFPs -- I mean,
19 accepting partial responses to the RFP is something that not
20 only a majority of the Commission thought was, was how we
21 were proceeding, but it's also possible for us to do this
22 based upon the award structure as outlined in the RFP.

23 So, and I would think that the evaluation
24 criteria, if we could have a discussion about that, and I
25 think -- you know, I'm hoping that Jean Clark through --

1 since our -- during our recess has been able to come up with
2 maybe some path forward for us to consider on evaluation
3 criteria, or other commissioners may have also come up with
4 some ideas.

5 But I'm hopeful that by having that discussion,
6 that we could actually maybe then all feel, you know, like,
7 yes, this makes sense, and it allows for a consistent
8 evaluation, whether the person is a prime contractor, you
9 know, full meal deal type of approach to the response, or
10 somebody who's just partially responding.

11 I don't have the answers right now because I'm
12 hoping that we can have that discussion in executive
13 session.

14 COMMISSIONER STERTZ: Madam Chair, we don't have
15 to have executive session to have this question answered.

16 Is Ms. Clark available?

17 VICE CHAIR FREEMAN: Yes.

18 COMMISSIONER STERTZ: What, what section and
19 subsection are you reading from, Madam Chair?

20 CHAIRPERSON MATHIS: Well, I think -- this is
21 awful, because what I have is the -- I don't think this is
22 actual final RFP, but on my version it was one of the close
23 to final ones.

24 And it's Page 12, Item 6.1, which is under uniform
25 instructions.

1 COMMISSIONER STERTZ: So under the uniform
2 instructions, Ms. Clark, under Item No. 6.1 there's a
3 boilerplate, which I'm sure that you're completely aware of.
4 Could you describe in layman's terms what the purpose of
5 that clause is in this, in a typical RFP?

6 JEAN CLARK: Yes, Mr. Stertz. It is standard
7 language in all of our, you know, solicitation documents
8 that get issued that we have the right to award, you know,
9 by individual line item by group, as the State sees fit.

10 But you also have to take into consideration how
11 you have scoped, you know, the procurement, what you're
12 trying to achieve, and then also you have to be able to, you
13 know, support and document that through your evaluation
14 process.

15 So although the language is there, I mean, it does
16 not give, I mean, as one may think, just carte blanche, you
17 know, to choose, you know, pieces or, you know, totalities
18 or add a couple pieces together.

19 So you still, when you're issuing and crafting any
20 solicitation document, you still are, you know, describing
21 and in some ways providing what the intent is as you go
22 forward.

23 And that also then links into your evaluation
24 criteria.

25 COMMISSIONER STERTZ: So, Madam Chair.

1 Ms. Clark, would that, would that type of clause
2 be more typically exercised in a procurement of line items
3 of goods and services?

4 JEAN CLARK: What --

5 COMMISSIONER STERTZ: Meaning if I was -- if this
6 is an RFP that was going out that said I want to buy a bunch
7 of refrigerators and a bunch of dishwashers, and I've got
8 two bidders that come in, and one guy has got a low bid on
9 dishwashers and one guy's got low bid on refrigerators, is
10 that, is that not the more general intent of that clause?

11 JEAN CLARK: That's usually when it's applied,
12 yes.

13 COMMISSIONER STERTZ: Thank you.

14 COMMISSIONER McNULTY: Madam Chair.

15 Ms. Clark, the only reason that several of us
16 agree to this RFP is because we were assured by the State
17 Procurement Office that we could accept partial bids.

18 I would move we go into executive session for the
19 purpose of discussing these confidential documents.

20 VICE CHAIR HERRERA: I second that.

21 CHAIRPERSON MATHIS: Is there a second?

22 VICE CHAIR HERRERA: I second that.

23 CHAIRPERSON MATHIS: Any discussion?

24 COMMISSIONER STERTZ: Yes, continuing discussion.

25 One, we have not determined whether or not we

1 answered the questions that we had at the end of our
2 morning.

3 Second, I didn't think that there was a question
4 whether or not there was going to be acceptance of all
5 proposals, whether or not they were inclusive of all
6 information or not.

7 I don't want to go into executive session with the
8 belief that we're going to create some sort of a scoring
9 mechanism that's going to give scoring to partial
10 submittals, other than what would be scored for complete
11 submittals.

12 And there's no reason -- if we exclude numeric,
13 and I'll ask this of both counsel, if we exclude numeric, is
14 there any reason why this can't be discussed in public
15 session?

16 MARY O'GRADY: My preference at this point frankly
17 would be to give legal advice on these issues in executive
18 session, if, if that -- if the Commission were okay with
19 that.

20 Because we are getting into an area where we're
21 dealing with the confidential -- both legal advice and this
22 whole evaluation process, which is at this point dealing
23 with confidential information. And so I would feel more
24 comfortable with the legal advice related to that issue
25 being given in executive session. If that's the will of the

1 Commission --

2 COMMISSIONER STERTZ: Mr. Kanefield.

3 JOSEPH KANEFIELD: Yeah, I agree with Mary. I
4 think we should discuss these matters in executive session.

5 Now, having said that, Madam Chair,
6 Commissioner Stertz.

7 The Commission is always able to discuss matters
8 in open session if it so deems appropriate, except if the
9 matter relates to an area that's deemed confidential by law.

10 But this one, because we're talking about the
11 confidential process by which bidders bid and the evaluation
12 criteria upon which they are to be judged, I think at this
13 point it probably does make sense to discuss these matters
14 in executive session and to receive any advice that Mary and
15 I may give you in executive session.

16 COMMISSIONER STERTZ: So the only reason to go
17 into executive session to get their -- would be anything
18 that would give preference or give any benefit to any one or
19 more of the bidders.

20 Is that correct?

21 COMMISSIONER McNULTY: Madam Chair, I believe we
22 were just advised by counsel that it makes sense to go into
23 executive session for legal advice also. So --

24 COMMISSIONER STERTZ: So you're saying, so you're
25 saying that asking our general counsel whether or not it

1 makes sense for what the parameters for going into executive
2 session requires us going into executive session requires
3 legal advice?

4 RAY BLADINE: Perhaps -- Commissioner,
5 Chairman Mathis.

6 Perhaps I can just provide some clarity from past
7 experience. I think you're getting into an area where
8 you're subjecting yourself to some liabilities you don't
9 need to subject yourself to. If you quickly went into
10 executive session, got your legal advice, then came back out
11 and do whatever you want to do, I think that's fine. But I
12 think the more that we talk about this issue after having
13 been told by the attorneys it's probably not a good idea,
14 really isn't a wise thing to do.

15 COMMISSIONER STERTZ: Madam Chair.

16 CHAIRPERSON MATHIS: Mr. Stertz.

17 COMMISSIONER STERTZ: Then to enter into executive
18 session at this time would be acceptable to accept -- to
19 understand legal advice, but I don't want to -- I will vote
20 against going into executive session if it is to discuss
21 anything other than legal advice.

22 COMMISSIONER McNULTY: I -- tell me if I can't
23 amend my motion.

24 I believe my notion was to go into executive
25 session to discuss confidential documents. I would amend to

1 it to enter executive session for legal advice and to
2 discuss confidential documents.

3 VICE CHAIR HERRERA: I accept the amended motion.
4 Second it.

5 CHAIRPERSON MATHIS: Any discussion?

6 (No oral response.)

7 CHAIRPERSON MATHIS: All in favor?

8 VICE CHAIR HERRERA: Aye.

9 COMMISSIONER McNULTY: Aye.

10 CHAIRPERSON MATHIS: Aye.

11 Any opposed?

12 VICE CHAIR FREEMAN: No.

13 COMMISSIONER STERTZ: No.

14 CHAIRPERSON MATHIS: Okay. So, sounds like the
15 ayes have it. It sounds like Herrera said aye, McNulty said
16 aye, Mathis said aye.

17 Freeman and Stertz both said no.

18 So I guess we'll go into executive session. The
19 time is 3:48 p.m.

20 And since confidential documents is a part of that
21 motion, I think that Jean Clark should be there for that
22 discussion, as well as our counsel.

23 (Whereupon, the public session recesses.)

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(Whereupon, the public session resumes.)

CHAIRPERSON MATHIS: We'll enter back into public session now.

It's 5:09 p.m.

We had a good discussion about the evaluation -- the confidential documents and evaluation criteria associated with this RFP for mapping services.

And with regard to the four questions that Ms. Clark articulated during public session earlier today -- trying to think of the best -- okay.

She'll be issuing an amendment to the RFP tomorrow, or SPO will, State Procurement Office, to address those four questions that came in to us from offerors. And as part of that, she'll be providing or they'll be providing additional information on the evaluation criteria.

Does that capture what we decided?

I just want to make sure.

Okay.

And her recommendation -- Ms. Clark's recommendation from earlier was that we extend the RFP due date to June 9th at 3:00 p.m., because we wanted to give people, the offerors, an opportunity to respond to the amendments that are going to be coming out on this RFP tomorrow.

1 And I believe that we are all okay with that.

2 Is everybody -- anybody have any thoughts on the
3 deadline? Or want to say anything?

4 JEAN CLARK: I'd like to comment. I'd just highly
5 to like recommend that we do push it back to a minimum to
6 June 9th based upon the issuance of the amendment and the
7 factors included in that, and the impact to the offerors, so
8 they have adequate notice to prepare, you know, fully
9 responsive proposal. So we highly recommend pushing it back
10 to June 9th.

11 CHAIRPERSON MATHIS: Okay.

12 Any discussion, comments?

13 (No oral response.)

14 CHAIRPERSON MATHIS: Okay. Hearing none, that
15 brings us to the end of the agenda, which is adjournment.
16 And there being no further business, I declare the meeting
17 adjourned.

18 It's now 5:12 p.m.

19 (Whereupon, the public session concludes.)

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STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

BE IT KNOWN that the foregoing meeting was held before me, Marty Herder, a Certified Court Reporter, CCR No. 50162, State of Arizona; that the foregoing 99 pages constitute a true and accurate transcript of all proceedings had upon the public session of said meeting, all done to the best of my skill and ability.

I FURTHER CERTIFY that I am in no way related to any of the parties hereto, nor am I in any way interested in the outcome hereof.

DATED at Chandler, Arizona, this 9th day of June, 2011.

C. Martin Herder, CCR
Certified Court Reporter
Certificate No. 50162