

**STATE OF WISCONSIN
STATEWIDE STUDENT INFORMATION SYSTEM
Request for Proposal #PA1150422**

PROCUREMENT PROCESS OBSERVATION REPORT

**Prepared by: Cari Anne Renlund
January 23, 2013**

Introduction and Background

On May 2, 2012, the Wisconsin Department of Administration (DOA), State Bureau of Procurement (SBOP) issued Request for Proposal (RFP) #PA1105422 for the Statewide Student Information System (SSIS). The RFP was issued by DOA on behalf of the Wisconsin Department of Public Instruction (DPI). The purpose of the RFP was to select a single vendor to establish and maintain a SSIS for DPI and the more than 440 school districts and non-district public charter schools in Wisconsin.

Vendor proposals were due on July 10, 2012. Our firm was retained for me to independently observe and monitor the procurement process from the time proposals were submitted by the vendors through the completion of the evaluation and selection process. My task was to ensure that all qualified proposers were afforded the opportunity to compete for the award in an unbiased manner. Specifically, I was asked to provide an independent assessment of the vendor evaluation process to ensure that all statutory and procedural requirements were followed and to certify that the procurement, evaluation and selection processes were open, fair, impartial and objective, and consistent with the RFP criteria.

As explained in more detail below, I performed an extensive observation of these procurement, evaluation and selection processes through attendance at various meetings and vendor demonstrations, and review of communications among the RFP evaluation committee (Evaluation Team) and SBOP as well as with the vendors themselves. I also reviewed the RFP, the pre-written benchmarks, and applicable state and federal law. Ultimately, seven vendors responded to the RFP. Two of them were offered the opportunity to participate in product demonstrations, and one was recommended for selection.

Based upon my observations, I conclude that the procurement, evaluation, and selection processes were reasonably and appropriately geared to afford all vendors an equal opportunity to compete for this contract. There was no bias in favor or against any bidder. The RFP was drafted to identify the best possible vendor for the job at the best possible price. The selection process was consistent with the RFP criteria, including an exhaustive qualitative review of the proposals submitted against pre-written benchmarks and an objective cost component. Finally, based upon my observations, the Evaluation Committee did not appear to be subject to any outside influence on the selection process.

Legal Framework and Other Procedural Requirements

Wisconsin law applicable to the purchasing of goods and services can be found in Chapter 16, section IV (purchasing) of the Wisconsin statutes. Generally speaking, the State purchases its materials, supplies, equipment and contractual services through competitive bidding, and awards contracts to the lowest responsible bidder. Wis. Stat. § 16.75(1). However, the State can, when appropriate, make purchases based on competitive sealed proposals rather than competitive bids. Wis. Stat. § 16.75(2m). When competitive sealed proposals are accepted, the State may award a contract based on factors other than merely lowest cost. *Id.* DOA's administrative rules for purchasing are in chapters Adm. 7-10 of the Wisconsin Administrative Code. State procurement policies and guidelines can also be found in the State Procurement Manual.

This procurement was based on the submission of competitive sealed proposals, rather than sealed bids, and therefore, Wis. Stat. § 16.75(2m) applies. In addition, because the SSIS has a large contractual services component, Wis. Stat. § 16.705 and Wis. Admin. Code ch. Adm. 10 apply.

The purposes of Wisconsin's procurement law are widely known and can be found in a variety of sources, including the applicable statutes, administrative code and Wisconsin legal precedent. These goals are summarized in a relatively recent Wisconsin Supreme Court case:

“[p]rocurring statutes and regulations such as Adm. Ch. 10 “are designed to prevent fraud, collusion, favoritism, and improvidence in the administration of public business, as well as to ensure that the public receives the best work... at the most reasonable price practicable.” As such, these regulations “are intended for the benefit and protection of the public and not of the individual bidder.”

PRN Assocs. LLC v. DOA, 2009 WI 53, ¶ 34, 317 Wis. 2d 656, 766 N.W.2d 559. (internal citations omitted.) Additionally, a bidding authority's actions (or inactions) taken during the evaluation process must not be arbitrary or unreasonable, and must instead be reasonably and rationally based upon achieving these principles. *D.M.K., Inc. v. Town of Pittsfield*, 2006 WI App 40, ¶¶ 14, 19; 290 Wis. 2d 474, 711 N.W. 2d 672.

With this framework in mind, I observed the procurement, evaluation, and selection processes utilized by DPI and DOA to identify the best vendor to provide the SSIS.

Observation Activities

I observed the opening of the proposals submitted by the vendors, observed all meetings held by the Evaluation Team and SBOP whether in person or by telephone, observed meetings held by SBOP regarding the RFP evaluation process, and I reviewed the RFP and applicable state and federal law, and rules and policies pertinent to the review process. I also attended all four days of vendor demonstrations and in-person meetings with the vendors following those demonstrations. I reviewed emails exchanged among the Evaluation Team and SBOP about the process, and reviewed vendor references and comments or suggestions submitted by Subject Matter Experts who participated in the vendor demonstrations.

In addition to my observations, I also asked questions of the Evaluation Team and SBOP to better understand the process and the requirements sought in the RFP. The Evaluation Team also asked me questions, and I did offer guidance to help ensure the integrity of the vendor selection process. Where appropriate, I referred questions from the Evaluation Team to SBOP or DOA Legal.

I also attended a number of meetings with SBOP and DOA Legal regarding the status of the selection process. At times, those discussions involved whether a particular course of action was in the best interests of the State and fair to the vendors. My experience as an attorney in procurement matters was useful to my understanding of the process and the issues discussed, however, I did not provide legal advice to SBOP, DOA Legal, or the Evaluation Team.

Evaluation Process

A. The Parties

1. Contracting Agency

The Contracting agency for the SSIS is DPI. The procuring agency is DOA. Thus, DOA issued the RFP and administered the procurement process. However, DPI is the agency responsible for executing and administering the SSIS contract. DPI's SSIS Project Manager was its primary contact for all purposes of the procurement and handled administrative and logistical tasks along with SBOP. The SSIS Project Manager also served as a member of the Evaluation Team.

2. Evaluation Team

The Evaluation Team was tasked with evaluating the RFP responses and vendor demonstrations according to the benchmarks and making a recommendation to DPI regarding the vendor to contract with to provide the SSIS. The Evaluation Team was required, pursuant to Wisconsin regulations, to consist of at least three members. *See* Wis. Admin. Code § 10.08(4). In this case, the Evaluation Team that recommended the procurement decision consisted of five members. When the RFP responses were originally submitted by the vendors, the Evaluation Team consisted of seven members, and included two DPI employees, and five employees of five different school districts in Wisconsin. State law and policy prohibit employees of the Office of the Governor, unclassified Agency heads, any Commissioners, Deputy Agency heads, Executive Assistants and Division Administrators from participating on an RFP evaluation committee. Executive Order 137; State Procurement Manual, PRO-C-29, The Procurement Process, Evaluation Committee, 3-27-07, p.1. The composition of the Evaluation Team complied with this prohibition.

I observed that each Evaluation Team member was very familiar with the RFP, the goals of the RFP, and the selection criteria to be applied. Each member had different professional experiences suited to serving as a member of the Team. Each of them had experience with and was knowledgeable with at least one, and in some cases several, Student Information Systems (SIS). None of them had any personal experience with an SSIS. Prior to the development and issuance of the RFP and the receipt of vendor responses, it was not known which vendors would compete for the contract.

Two of the seven members comprising the Evaluation Team left before the Evaluation Team made a vendor recommendation. One evaluator resigned on September 18, 2012, at the request of his employer due to time demands. This Evaluator performed initial scoring of the RFP responses and participated in Evaluation Team meetings regarding scoring. Once the resignation was received, SBOP changed this Evaluator's scores to 0. As discussed in more detail below, another Evaluator was removed from the Evaluation Team by SBOP following Vendor Demonstrations in October, 2012. This Evaluator's scores were also changed to 0.

The five Evaluation Team members that made the procurement recommendation for the SSIS had the requisite knowledge and experience to do the job. I observed each member painstakingly review the vendor responses and evaluate the proposals against pre-determined benchmarks. It appeared that the scoring decisions of the members

individually, and the collective recommendations of the team were thoughtful and deliberate decisions, based exclusively on the vendor proposals, the benchmarks, and the rules and laws applicable to the evaluation process.

The identities of the Evaluation Team members were kept confidential from the public throughout the evaluation process to help ensure against outside influence. I interviewed the Evaluation Team members individually. During those conversations, each person confirmed that the proposals were scored exclusively upon an evaluation of the proposals against the benchmarks and nothing else. No member identified having been subjected to any illegal or undue outside influence (from a vendor, politician, school district, or state agency) regarding the evaluation. None was offered any private benefit in exchange for the SSIS recommendation.

In summary, each member appeared to approach this process fairly, without a bias for or against any vendor, and with the best interests of the State in mind.

3. SBOP

SBOP was primarily represented in this process by DOA employee Karen Aasen. Ms. Aasen has been an employee of SBOP for many years and has extensive experience with large, complex procurements. Ms. Aasen was the point of contact for all communication with the vendors and also advised the Evaluation Team throughout the entire evaluation and selection process. Ms. Aasen was assisted at times by other employees of SBOP. Ms. Aasen was very knowledgeable in all aspects of the procurement process, including the RFP, the evaluation criteria, and the laws and rules applicable to the process. Ms. Aasen and the other members of the SBOP staff worked diligently to make sure that the evaluation process was fair to all vendors, and that the process was free from bias for or against any vendor. She and her SBOP counterparts were careful to ensure that the evaluation of the proposals was made pursuant to the predetermined benchmarks and in accordance with applicable laws and administrative rules. When Ms. Aasen or the Evaluation Team requested further guidance from SBOP on matters, the Director of the Bureau of Procurement, Rick Hughes, was consulted. Mr. Hughes, like Ms. Aasen and the rest of his employees, are civil servants.

B. Proposal Submissions

Responses to the RFP were due on July 10, 2012, by 2:00 pm CST. Seven vendors submitted timely proposals. SBOP opened the responses after receipt to ensure that the submissions were complete, and I observed the opening of the responses. Each vendor

was to include a confidential Cost Proposal in a sealed envelope. In one instance, a vendor submission included two nearly identical, unmarked and sealed envelopes. Without opening them, SBOP could not tell which envelope contained the Cost Proposal. SBOP did not open either envelope, and instead contacted the vendor to identify which envelope contained the confidential Cost Proposal. In another instance, compact discs containing a vendor's proposal were damaged during shipping. SBOP contacted that vendor to obtain replacement compact discs. SBOP determined that all seven proposals were complete and could proceed to the evaluation phase.

The Evaluation Team received copies of the seven proposals on July 17, 2012, and began its review at that time.

C. Selection Requirements

Selection requirements were identified throughout the RFP. Mandatory requirements were scored on a pass/fail basis. Bidders needed to certify that they could meet all of the mandatory criteria in order to be considered for further evaluation.

Non-mandatory requirements were evaluated against pre-determined benchmarks and then scored individually by each Evaluation Team member. The scores for the non-mandatory items made up 75% of the total possible score, while cost accounted for the remaining 25%. Scoring for the Cost Proposals was objective, and the Cost Proposals were not viewed by the Evaluation Team. The final cost score was not given to the Evaluation Team until after technical scoring was completed, responses to Best and Final Offers from remaining proposers were received, and the Cost Proposals were reviewed and tabulated by SBOP.

This evaluation framework was consistent with applicable regulations, including Wis. Admin. Code § 10.08, provided all vendors an equal opportunity to compete for the contract, and was designed to obtain the best quality product at the best price for the State.

D. Communications with the Vendors and Clarification Questions

All communications with the vendors (with the exception of the Vendor Demonstrations which is discussed in more detail below) was handled by SBOP, specifically Ms. Aasen. The Evaluation Team members' identities were kept confidential from the vendors and other members of the public. During the evaluation process, none

of the vendors spoke with or attempted to speak with any of the Evaluation Team members regarding the selection process.

The Evaluation Team identified a number of clarifying questions for the vendors throughout the evaluation process. Those questions were drafted by the Evaluation Team, with the assistance of SBOP, and Ms. Aasen submitted those questions to the vendors and received the responses. This process is contemplated by Wis. Stat. § 16.75(2m)(d) and was handled fairly and appropriately during this procurement.

E. Initial Scoring and Vendor Disqualifications

The Evaluation Team performed an initial review of all seven proposals on July 17-18, 2012. Following that initial review, the Evaluation Team members each reviewed and scored the RFP responses individually. Initial scoring was completed by August 6, 2012. The initial scores were then compiled and reviewed by SBOP. The Evaluation Team then met in person August 7-9, 2012, to collectively review the responses, initial scoring and potential anomalies.

During the Evaluation Team's review of the proposals on August 7-9, 2012, the Evaluation Team unanimously agreed that two of the seven proposals failed to satisfy a number of the mandatory requirements. The Evaluation Team identified the specific criteria each of those two vendors failed to achieve and provided that information to SBOP and DOA Legal. SBOP and DOA Legal confirmed that disqualifications were warranted. Those two vendors were then removed from further consideration. The decision by the Evaluation Team was unanimous, and was based on a reasonable interpretation of the RFP, the benchmarks and the RFP responses. I observed this decision to be thoughtful, deliberate and made in the best interests of the State.

The review process for the five remaining proposals continued. To ensure that the Evaluation Team had a clear and consistent understanding of the RFP criteria and the pre-written benchmarks, scoring for the five remaining proposals was reviewed by the Evaluation Team collectively for potential anomalies. As an example, if scores for any one question appeared to be disparate in range, (i.e., one Evaluator scored a response very low while another scored the same response very high), the Team reviewed them to ensure that the Team understood the question, the response, and the benchmarks. If errors or misunderstandings were discovered, changes were made. Otherwise, the scores remained unchanged. This process was exhaustive. I observed the Evaluation Team members apply the benchmarks to the RFP responses, and I observed the Evaluation Team meetings to discuss the scoring decisions. The Team worked hard to ensure that

the benchmarks were used and that the scores given were supported by the vendor responses.

Clarification questions were identified by the Committee, drafted by SBOP, approved by the Committee and ultimately submitted to vendors in early September, 2012. Responses to those questions were provided by the vendors in mid-September. This process was consistent with Wis. Stat. § 16.75(2m)(d).

The Evaluation Team met on September 25, 2012, to review the responses to the clarification questions, review anomalies and complete initial scoring. Again, this process was an exhaustive review of the proposals against the pre-written benchmarks. Upon completion of this review, initial scoring totals were compiled to determine the vendors that would be invited to demonstrations. Two vendors had initial scores substantially higher than the others. There were roughly 1700 points separating the 2nd and 3rd ranked proposals. The Evaluation Team decided to invite the two highest ranking vendors to demonstrate their products. This process is consistent with Wis. Stats. § 16.75(2m)(e).

F. Vendor Demonstrations

On September 27, 2012, SBOP invited the two top-scoring vendors to demonstrate their product for the Evaluation Team. The goals of the demonstrations included allowing the Evaluation Team to determine whether the vendors were capable of performing the mandatory functionalities of the RFP and to observe and score the non-mandatory functionalities, as well. Great care was taken to ensure the demonstrations were fair for both vendors and that the integrity and confidentiality of the process was protected.

SBOP flipped a coin to determine which vendor would demonstrate their product first and which would go second. The demonstrations were held in different locations on different days. The first vendor demonstration was held on October 9-10, 2012, at the Best Western Inn Tower in Madison, Wisconsin. The second demonstration was held on October 11-12, 2012, at the Comfort Inn and Suites in DeForest, Wisconsin. The Evaluation Team drafted a script for the vendors to follow during the demonstrations. The script was identical for both vendors and addressed areas the Evaluation Team specifically wanted to observe during the demonstrations.

The demonstrations were attended by the Evaluation Team, members of SBOP and the Subject Matter Experts (SMEs), discussed below. All of these individuals were asked

to maintain the confidentiality of the process and told not to speak about the demonstrations elsewhere. All those observing the demonstrations were allowed to ask questions of the vendors. At the conclusion of the second day of demonstrations for both vendors, each vendor was invited to meet with the Evaluation Committee, SBOP, and a very small number of SMEs for a brief question and answer session. Other than the vendors themselves, and Ms. Aasen from SBOP, the identities of those that attended the demonstrations and the individual meetings were not disclosed.

I observed the demonstrations as well as the individual meetings with the vendors. Based upon my observations, the process was consistent with Wis. Stat. § 16.75(2m)(e) and Wis. Admin. Code § 10.08(3) - (5), was reasonably designed to achieve the goals of the selection process, and was conducted fairly and equitably to both vendors.

G. Subject Matter Experts

Due to the breadth, scope and complexity of the RFP and the SSIS itself, DPI and SBOP identified dozens of SMEs throughout Wisconsin having knowledge and experience with student information systems to assist in the evaluation process. None of these individuals were allowed to evaluate and score vendor proposals. Rather, the SMEs were utilized to observe the vendor demonstrations and provide oral and written input to the Evaluation Team regarding their observations. In all, 74 SMEs were invited to observe the vendor demonstrations and 61 of them attended. The SMEs were not told until the demonstrations occurred what vendors they would be observing, and each SME agreed to maintain confidentiality regarding vendor observations and the experience.

The SMEs included school nurses, school district IT professionals, special education teachers, regular education and advanced learning teachers, principals, superintendents, administrative support staff and IT professionals from SBOP and DPI. All of the SMEs had experience with at least one, and in some cases several, of the vendors (and products provided by the vendors) that responded to the RFP. Because one of the two vendors is currently the SIS provider for a majority of Wisconsin school districts, more than half of the SMEs at the demonstrations were generally familiar with one of the vendors. This fact did not appear to negatively or positively impact the vendor demonstrations, and did not cause the Evaluation Team members to modify their scores in favor of or against either remaining vendor.

I observed the vendor demonstrations, listened to the oral input provided by the SMEs, and reviewed all written comments submitted by them. Since the SMEs were not privy to most of the evaluation process (including the development of the RFP and the

vendor responses themselves), the comments made by them were largely made in a vacuum. As such, some of the comments were not helpful, or were misinformed. However, the comments made relating to the vendor demonstrations themselves appeared to have been made in good faith, based on their observations and experience and for the purpose of assisting the Evaluation Team in its analysis of the vendor responses.

Each Evaluation Team member listened to oral input and reviewed written input provided by the SMEs and appeared to carefully and fairly consider that input when scoring the RFP responses. As discussed in more detail below, some of the comments provided by the SMEs were considered in SBOP's decision to remove an Evaluation Team member from the Committee.

Based upon my observations, the use of the SMEs was consistent with state law, regulations and policy. *See Wis. Stat. § 16.75(2m)(e) - (f); Wis. Admin. Code § 10.08 (3) - (5), State Procurement Manual, PRO-C-29, The Procurement Process, Evaluation Committee, 3-27-07, pp. 3-4.*

H. Removal of Evaluation Team Member

Wisconsin law prohibits an Evaluation Team member from serving on an evaluation committee when the action of that committee might benefit that person, or a member of that person's immediate family. *See Wis. Admin. Code § 10.08(8).* At the time that Vendor Demonstrations were conducted, the Evaluation Team consisted of six members. One of those Evaluation Team Members works in a school district that currently utilizes an SIS provided by one of the two vendor finalists. For ease I will call this Evaluator "Evaluator X" and this Vendor "Vendor Y." This evaluator was, therefore, very familiar with many aspects of that vendor's product. During the course of the demonstrations, this evaluator was very engaged in discourse with both vendors and the rest of the audience. During Vendor Y's demonstration, Ms. Aasen received a hand written note from an SME indicating that the SME perceived Evaluator X to be assisting Vendor Y in its responses to questions from the audience. After receiving the note, Ms. Aasen removed Evaluator X from the room to speak privately. Ms. Aasen informed Evaluator X of the note and its contents and indicated that although she did not have the same perception of her conduct, Evaluator X could not help or coach Vendor Y. Evaluator X appeared shocked and assured Ms. Aasen that no coaching/helping or bias was intended. Evaluator X rejoined the vendor demonstrations and did not ask another question, or speak aloud in the demonstration, for the remainder of the session.

Following vendor demonstrations, SBOP learned that a number of other SMEs, and at least two other Evaluation Team members, had a concern that Evaluator X had coached/assisted Vendor Y during the demonstrations by assisting Vendor Y in its response to questions about its product. Though the SMEs had not been told that Evaluator X was a member of the Evaluation Team, some SMEs speculated that was the case. In other circumstances, some SMEs generally raised a concern about any member of the Evaluation Team being a current user of either vendor's products.

Although it is possible that Evaluator X could have had a subconscious bias towards Vendor Y due to her familiarity with their product, I observed no inappropriate bias, conscious or subconscious, on the part of Evaluator X for or against any vendor during any part of the Evaluation Process. Nor was I made aware of any evidence that Evaluator X or any member of her family would personally benefit from any particular vendor receiving the SSIS contract award. I also spoke to each member of the Evaluation Team individually to determine whether Evaluator X's conduct at any time during the evaluation process impacted their individual scoring decisions in any way; I was told by each that was not the case.

I spoke at length with SBOP and DOA Legal regarding the concerns raised by the SMEs and the Evaluation Team. I also observed the process used by SBOP to determine whether to disqualify Evaluator X as a result of those concerns. SBOP decided to remove Evaluator X from the Evaluation Team out of an abundance of caution to ensure the integrity of the selection process. A number of SMEs perceived that Evaluator X's conduct at the demonstration was unfair toward the other finalist. In addition, at least two other members of the Evaluation Team and a member of SBOP agreed that this perception was reasonable based upon the conduct of Evaluator X at the Vendor Demonstrations.

In making the decision to remove Evaluator X from the Evaluation Team, I observed SBOP and DOA Legal thoughtfully and deliberately consider the facts, the applicable law and policy, fairness to all the vendors, and the best interests of the State. The decision was reasonable under the circumstances and was not arbitrary nor made to benefit any one vendor.

I. Reference Checks

SBOP conducted two sets of references checks on the two finalists. First, SBOP sent identical reference questions to each of the references identified by the vendors. Second, SBOP also checked references for each vendor by contacting school districts in

Wisconsin currently using a SIS provided by each vendor. A random process was used to identify the school districts that would be asked to provide references. An equal number of school districts of similar size were asked to provide references for each vendor. I observed this process to be an excellent method of benefitting from the experience of Wisconsin's school districts with these vendors, as well as fair and impartial to the vendors themselves.

J. Final Technical Scoring

Following vendor demonstrations, the Evaluation Team met on October 16, 2012, and discussed the demonstrations, reference checks, and options for Best and Final Offers. Following that meeting, each member proceeded to individually rescore the proposals to reflect the vendor demonstrations. The Evaluation Team then met on November 12, 2012, to collectively review the scores against the benchmarks again and determine whether any scoring anomalies or errors existed. After another exhaustive review of the proposals and the vendor demonstrations against the benchmarks, the Evaluation Team completed its scoring. The vendors were separated by 1400 points. The Cost Proposals had not yet been opened, so the score did not yet reflect the total possible score. Based upon my observations, the final technical scoring process satisfied applicable state law and policy. *See Wis. Stat. § 16.75(2m) and Wis. Admin. Code § 10.08.*

K. Best and Final Offers

The Evaluation Team then sought counsel from SBOP regarding whether to request Best and Final Offers (BAFOs) from both remaining vendors or from just the top technical-scoring vendor. The Evaluation Team met with SBOP and DOA Legal by phone on November 15, 2012. Ultimately, SBOP recommended requesting BAFOs from both remaining proposers. Though the Evaluation Team preferred to offer a BAFO to only the top technical scoring proposer, SBOP's recommendation to ask for a BAFO from both vendors was reasonably based. Neither vendor had been disqualified, the point differential was not so disparate as to warrant exclusion of a vendor, and the Cost Proposals had not been opened nor included in the final score. Moreover, having two vendors available is advantageous, especially if contract negotiations with a top scoring proposer fail to result in a contract. SBOP indicated that narrowing to one vendor under these circumstances was premature. SBOP indicated that performance guarantees, financial assurances and further clarifications could be sought in the BAFOs. The Evaluation Team agreed that asking both vendors for a BAFO was the best decision.

The DPI Project Manager and SBOP worked together to draft the BAFOs. The BAFOs were shared with and approved by the Evaluation Team before being sent to the vendors. The BAFOs were sent by SBOP to the vendors on December 6, 2012, were revised on December 12, 2012 based on vendor questions, and vendor responses were timely submitted by December 17, 2012. On December 19, 2012, SBOP sent additional questions regarding the BAFOs to both vendors, and responses were timely submitted by December 27, 2012. The BAFO process was conducted fairly and was consistent with Wis. Stat. § 16.75(2m)(e) and Wis. Admin. Code § 10.08(5).

L. Milwaukee Public Schools

It was clear during the course of the evaluation process that Milwaukee Public Schools (MPS) faced unique challenges with regard to SSIS implementation. The most pressing challenge was that MPS will lose its current SIS provider before the start of the 2013/2014 school year, leaving it with no system by which to manage student records. As a result, MPS needs to implement either the SSIS procured by DPI in this selection process or its own new district SIS before the start of the next school year. Due to the size of MPS and the very large number of employees that would require training on the new system, it is imperative to MPS that a new vendor is selected and a contract executed very early in 2013 in order to be prepared for the new school year. If that is impossible, then MPS may have to opt out of the state SSIS and proceed with its own procurement. This option is highly undesirable to both MPS and the State.

MPS sent a letter to DPI on November 28, 2012, expressing its grave concerns about the duration of the selection process and its need to select a new SIS provider very quickly. I observed a meeting among SBOP, DOA Legal, the DPI Project Manager and a procurement official with DPI to discuss this problem. It was agreed that MPS's concerns were very real, and that a plan for addressing those concerns needed to be developed. It was agreed that despite MPS's real and unique challenges, MPS could not now pressure the State to prematurely select a particular vendor or otherwise dictate which vendor was selected.

A meeting with MPS was held, and a number of options were identified to assist MPS. I did not attend that meeting. However, following the meeting, I was assured that there was no discussion regarding any particular proposer vying for the SSIS contract and that MPS did not pressure the State to select any particular vendor. Rather, I was told that the meeting focused on identifying potential solutions to this issue, including trying to draw this selection process to a close as quickly as possible so a contract could be executed and system implementation could begin.

M. Cost Proposals

On November 29, 2012, prior to sending BAFOs to the vendors, I observed SBOP open the finalists' Cost Proposals. This was done to determine whether anything in the Cost Proposals required clarification by the vendors. If clarification was necessary, SBOP could seek that through the BAFOs. However, no problems were identified in the Cost Proposals. Cost scores were not tabulated.

The Evaluation Team members were not present when the Cost Proposals were initially opened and they were not made aware of the content of the Cost Proposals until after responses to the BAFOs were received and the cost scores were compiled by SBOP.

After the vendors submitted the final BAFOs, SBOP evaluated and scored the Cost Proposals. SBOP added the cost scores to each vendor's technical scores to reach a total score for each vendor. The Cost Points were allocated based on pre-determined and objective criteria. The Evaluation Team did not take part in evaluating the Cost Proposals. The process used for evaluating the Cost Proposals was fair to all vendors and consistent with applicable state regulations. *See* Wis. Stat. § 16.75(2m); Wis. Admin. Code § 10.08.

N. Vendor Recommendation

On January 10, 2013, the Evaluation Team and members of SBOP met by telephone to hear the final, total scores for the two remaining vendors. SBOP indicated that the vendor that received the highest technical score also proposed the lowest cost, and therefore received the highest cost score. Added together, the vendor with the highest total score was the clear winner. The Evaluation Team unanimously recommended that the SSIS contract be awarded to the highest scoring proposer. The vendor recommendation was fair to all vendors, and consistent with the RFP and applicable state law. *See* Wis. Stat. § 16.75(2m)(g).

Conclusion

Based upon my extensive observations, I conclude that:

- 1) The SSIS procurement, evaluation and selection process was open, fair, impartial and objective, and consistent with the RFP criteria;
- 2) The State and the Evaluation Team carefully followed the statutory and regulatory requirements applicable to the procurement process;
- 3) All proposing vendors were afforded an equal opportunity to compete for the contract award; and
- 4) The procurement, evaluation and selection process satisfied the goals and objectives of Wisconsin's public contracting requirements.