



STATE ETHICS COMMISSION

Commission Meeting Minutes of February 2, 2024, | 9:02AM-11:20AM [Subject to Ratification by Commission]

Call to Order

Chair Lang called the meeting to Order at 9:02 AM.

1. Roll Call

The roll was called; the following Commissioners were present:

Jeffrey L. Baker, Commissioner
Stuart M. Bluestone, Commissioner
Hon. Celia Castillo, Commissioner
Hon. Dr. Terry McMillan, Commissioner
Ronald Solimon, Commissioner
Dr. Judy Villanueva, Commissioner
Hon. William F. Lang, Chair

2. Approval of Agenda

Commissioner Baker moved to strike agenda items 6 and 7. Commissioner Baker requested these items to be moved to the Commission's next regularly scheduled meeting. Commissioner Villanueva seconded. Hearing no opposition the agenda was approved unanimously with the corresponding amendments.

3. Approval of December 15, 2023, Commission Meeting Minutes

Chair Lang sought a motion for the approval of the minutes from the December 15th, 2023, Commission meeting. Commissioner Bluestone moved to approve the minutes. Commissioner Solimon seconded. Hearing no discussion or objections the minutes were approved unanimously.

Commission Meeting Items

4. Legislative Update:

Director Farris gave a legislative update on the Commission's legislative priority, House Bill 8: Changes to the Governmental Conduct Act. HB8 received a unanimous vote from the House of Representatives and is currently assigned to the Senate Judiciary Committee and the Senate Finance Committee. Director

Farris also presented House Bill 2: The General Appropriations Act, which appropriated 1.7 million dollars to the Commission.

5. Advisory Opinion 2024-01

Executive Director Farris gave an overview of the advisory opinion which addressed the question:

“Following the State Ethics Commission’s issuance of Advisory Opinion 2023-07, in which the Commission opined that the Procurement Code, NMSA 1978, § § 13-1-28 to -199 (1984, as amended through 2023), applies to the selection of contracts for legal services on a contingent-fee basis, on December 12, 2023, the Commission received a related request for an advisory opinion regarding the procurement of contracts for outside counsel. The request explains:

Based in part on staffing limitations and the extensive resources needed for certain cases and types of litigation, [the Attorney General’s Office (“AGO”)] frequently requires the assistance of outside law firms to represent the State. This is particularly true for complex affirmative civil litigation in the subject areas of consumer protection, environmental protection, civil rights, securities, antitrust, and fraud against tax payers. In some cases, [the AGO] may become aware of claims on its own and seek outside assistance; in others, private law firms bring claims or theories of recovery to [the AGO] based on their independent investigation or other proprietary information. Also, at times, the State may need to act quickly to file an action in order to avoid the running of a statute of limitations, a statute of repose, or other filing deadline. For example, a lead plaintiff motion in securities case must be filed within sixty days of the complaint, much of which can elapse before [the AGO] even learns of a fund’s eligibility for lead plaintiff status. These circumstances can make it challenging to establish a uniform procurement process.

Considering that context, the request poses two questions regarding the application of the Procurement Code to the AGO’s procurement of contracts for legal services:

1. *Would the AGO be in compliance with the Procurement Code if it (a) generates a list of approved law firms by issuing a request for proposals (“RFP”) for legal representation on any affirmative AGO litigation in which the services of outside counsel are needed without reference to a specific case or subject area and (b) later selects one of the approved law firms to represent the State in specific matters as they arise without using*

an additional, separate procurement process under the Code for each matter?

2. Is there a method for an emergency procurement of legal services when compliance with the normal procurement methods in the Procurement Code, would cause the State to lose a claim due to the expiration of a statute of limitations or filing deadline?"

ANSWERS

1. *Yes.*
2. *Likely no.*

Chair Lang sought a motion to adopt Advisory Opinion 2024-01. Commissioner Bluestone recommended including a note about the maximum contract period for these contracts. Commissioner Castillo moved to adopt the opinion; Commissioner Villanueva seconded. The advisory opinion, with edits discussed, was approved unanimously.

~~6. State Ethics Commission Media Policy Resolution 2024-01~~

~~7. Procurement Code Op-Ed~~

8. Public Comment (pre-closed session)

No public comments were made.

---Beginning of Executive Session---

Chair Lang sought a motion to enter executive session under NMSA 1978, §§ 10-15-1(H)(2) (limited personnel matters), 10-15-1(H)(3) (administrative adjudicatory proceedings), and 10-15-1(H)(7) (attorney-client privilege pertaining to litigation). Commissioner Bluestone moved to enter executive session; Commissioner Baker seconded. Hearing no discussion, the Commission entered executive session.

9. Discussion regarding current and potential litigation:
(Boyd)

- a. Authorization of civil action to enforce Sections 10-16-3.1 of the Governmental Conduct Act.

10. Administrative Matters under Revised Uniform Law on Notarial Acts:
(Branch)

- a. 2023-NP-02 *In re commission of Nava* Default Order.

11. Discussion regarding administrative matters subject to settlement approval:
(Farris)

- a. Administrative Complaint No. 2023-025
- b. Administrative Complaint No. 2023-036

12. Discussion regarding administrative matters under State Ethics Commission Act:
(Lang)

Extensions for further investigations of administrative complaints:

- a. Administrative Complaint No. 2023-027

Dismissals of administrative complaints:

- b. Administrative Complaint No. 2023-034
- c. Administrative Complaint No. 2023-047
- d. Administrative Complaint No. 2023-048
- e. Administrative Complaint No. 2023-049
- f. Administrative Complaint No. 2023-050
- g. Administrative Complaint No. 2023-051
- h. Administrative Complaint No. 2023-052
- i. Administrative Complaint No. 2023-053
- j. Administrative Complaint No. 2023-055
- k. Administrative Complaint No. 2023-056
- l. Administrative Complaint No. 2023-057
- m. Administrative Complaint No. 2023-058
- n. Administrative Complaint No. 2023-059
- o. Administrative Complaint No. 2023-060
- p. Administrative Complaint No. 2023-061
- q. Administrative Complaint No. 2024-001
- r. Administrative Complaint No. 2024-002

The matters discussed in the closed meeting were limited to those specified in the motion to enter executive session. After concluding its discussion of these matters, the Commission resumed public session upon an appropriate motion.

---End of Executive Session---

13. **Authorization of civil action to enforce Section 10-16-3.1 of the Governmental Conduct Act:**
Commissioner Solimon moved as stated above, Commissioner Castillo seconded. All Commissioners and the Chair voted affirmative and authorized a civil action to enforce the Governmental Conduct Act.

14. **Action on Administrative matters under the Revised Uniform Law on Notarial Acts:**
(Branch)

- a. **Commission sought motion to approve Default Order 2023-NP-02 *In re commission of Nava:*** Commissioner Solimon moved as stated above,

Commissioner Castillo seconded. All Commissioners and the Chair voted affirmative and approved the settlement agreement.

15. Action on Administrative Matter subject to settlement approval Nos. 2023-025 and 2023-036:

(Boyd, Randall)

- a. **Commission staff sought motion to approve settlement agreement in administrative complaint No. 2023-025:** Commissioner Castillo moved as stated above, Commissioner Bluestone seconded. All Commissioners and the Chair voted affirmative and approved the settlement agreement.
- b. **Commission staff sought motion to approve settlement agreement in administrative complaint No. 2023-036:** Commissioner Bluestone moved as stated above, Commissioner Solimon seconded. All Commissioners and the Chair voted affirmative and approved the settlement agreement unanimously.

16. Action on Administrative Complaints Nos. 2023-027, 2023-034, 2023-047, 2023-048, 2023-049, 2023-050, 2023-051, 2023-052, 2023-053, 2023-055, 2023-056, 2023-057, 2023-058, 2023-059, 2023-060, 2023-061, 2024-001, 2024-002

(Manierre)

The Commission considered the following motions regarding actions on Administrative Complaints:

- a. **Commission staff sought motion for 90-day extension on Administrative Complaint No. 2023-027:** Commissioner Baker moved as stated above, Commissioner Bluestone seconded. All Commissioners and the Chair voted in the affirmative and the matter was approved for a 90-day extension.
- b. **Commission staff sought motion of dismissal of Administrative Complaint No. 2023-034:** Commissioner Solimon moved as stated above, Commissioner Bluestone seconded. All other Commissioners and the Chair voted in the affirmative and the matter was dismissed.
- c. **Commission staff sought motion of dismissal of Administrative Complaint No. 2023-047:** Commissioner Solimon moved as stated above, Commissioner Bluestone seconded. All other Commissioners and the Chair voted in the affirmative and the matter was dismissed.
- d. **Commission staff sought motion of dismissal of Administrative Complaint No. 2023-048:** Commissioner Solimon moved as stated above, Commissioner Bluestone seconded. All other Commissioners and the Chair voted in the affirmative and the matter was dismissed.

- e. **Commission staff sought motion of dismissal of Administrative Complaint No. 2023-049:** Commissioner Solimon moved as stated above, Commissioner Bluestone seconded. All other Commissioners and the Chair voted in the affirmative and the matter was dismissed.
- f. **Commission staff sought motion of dismissal of Administrative Complaint No. 2023-050:** Commissioner Solimon moved as stated above, Commissioner Bluestone seconded. All other Commissioners and the Chair voted in the affirmative and the matter was dismissed.
- g. **Commission staff sought motion of dismissal of Administrative Complaint No. 2023-051:** Commissioner Solimon moved as stated above, Commissioner Bluestone seconded. All other Commissioners and the Chair voted in the affirmative and the matter was dismissed.
- h. **Commission staff sought motion of dismissal of Administrative Complaint No. 2023-052:** Commissioner Solimon moved as stated above, Commissioner Bluestone seconded. All other Commissioners and the Chair voted in the affirmative and the matter was dismissed.
- i. **Commission staff sought motion of dismissal of Administrative Complaint No. 2023-053:** Commissioner Solimon moved as stated above, Commissioner Bluestone seconded. All other Commissioners and the Chair voted in the affirmative and the matter was dismissed.
- j. **Commission staff sought motion of dismissal of Administrative Complaint No. 2023-055:** Commissioner Solimon moved as stated above, Commissioner Bluestone seconded. All other Commissioners and the Chair voted in the affirmative and the matter was dismissed.
- k. **Commission staff sought motion of dismissal of Administrative Complaint No. 2023-056:** Commissioner Solimon moved as stated above, Commissioner Bluestone seconded. All other Commissioners and the Chair voted in the affirmative and the matter was dismissed.
- l. **Commission staff sought motion of dismissal of Administrative Complaint No. 2023-057:** Commissioner Solimon moved as stated above, Commissioner Bluestone seconded. All other Commissioners and the Chair voted in the affirmative and the matter was dismissed.
- m. **Commission staff sought motion of dismissal of Administrative Complaint No. 2023-058:** Commissioner Solimon moved as stated above, Commissioner Bluestone seconded. All other Commissioners and the Chair voted in the affirmative and the matter was dismissed.

- n. **Commission staff sought motion of dismissal of Administrative Complaint No. 2023-059:** Commissioner Solimon moved as stated above, Commissioner Bluestone seconded. All other Commissioners and the Chair voted in the affirmative and the matter was dismissed.
- o. **Commission staff sought motion of dismissal of Administrative Complaint No. 2023-060:** Commissioner Solimon moved as stated above, Commissioner Bluestone seconded. All other Commissioners and the Chair voted in the affirmative and the matter was dismissed.
- p. **Commission staff sought motion of dismissal of Administrative Complaint No. 2023-061:** Commissioner Solimon moved as stated above, Commissioner Bluestone seconded. All other Commissioners and the Chair voted in the affirmative and the matter was dismissed.
- q. **Commission staff sought motion of dismissal of Administrative Complaint No. 2024-001:** Commissioner Solimon moved as stated above, Commissioner Bluestone seconded. All other Commissioners and the Chair voted in the affirmative and the matter was dismissed.
- r. **Commission staff sought motion of dismissal of Administrative Complaint No. 2024-002:** Commissioner Solimon moved as stated above, Commissioner Bluestone seconded. All other Commissioners and the Chair voted in the affirmative and the matter was dismissed.

17. Discussion of Next Meeting

Chair Lang confirmed that the next regularly scheduled meeting will take place virtually, April 5th, 2024, at 9:00 AM.

18. Public Comment

No public comments were made.

19. Adjournment

Chair Lang raised the adjournment of the meeting. With no objections made, the meeting was adjourned at 11:20 AM.

For inquiries or special assistance, please contact Ethics.Commission@sec.nm.gov