

ATTACHMENT A

Mark Johnson

From: Mark Johnson
Sent: Wednesday, March 11, 2020 9:30 AM
To: SBE Members and Advisors
Cc: Eric Snider
Subject: RE: SREB contract?

State Board members –

Regrettably, it has become apparent that you are not going to answer these reasonable questions (even though you publicly committed to do so at the State Board meeting).

DPI's top focus right now is responding to the impacts of the coronavirus. When appropriate, we will proceed with the facts we have on this contract concerning the violation of laws and the conflict of interest.

If at any time you change your mind and wish to assist with DPI's internal investigation, please just reach out.

Mark

NC Superintendent
North Carolina Department of Public Instruction

Please note: e-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

From: Mark Johnson
Sent: Friday, March 6, 2020 7:32 AM
To: SBE Members and Advisors <SBEMembersandAdvisors@dpi.nc.gov>
Cc: Eric Snider <Eric.Snider@dpi.nc.gov>
Subject: RE: SREB contract?

Thank you for agreeing to answer the questions below. Please answer before the end of the day on Tuesday. That should be enough time, but if not, just let us know. Thanks, Mark

1. Did the State Board vote to approve the execution of this contract? If so, please provide all relevant records relating to the State Board's discussion and approval. If not, under what authority did you execute this contract in the name of the State Board without board approval?
2. Did you conduct a competitive bid for the services provided by this contract as required by state procurement law and State Board policy CNTR-002? If so, please provide all relevant records. If not, please explain why this contract was not competitively bid and provide the justification for no competition.
3. Did you prepare a service contract award recommendation, including the mandatory "task description of the services and desired results," and submit that recommendation to the NC Department of Administration Division of Purchase for approval as required by NCDOA administrative rules? If so, please provide all relevant records. If not, please explain why these rules were not followed.
4. Was this contract reported to DPI or to the State Board as required by State Board policy CNTR-002? If so, please provide all relevant records. If not, please explain why this contract was not appropriately reported.

5. Did you submit an Intent to Contract document as required by State Board policy CNTR-002? If so, please provide. If not, please explain why you did not.
6. State Board policy CNTR-002 states that all contracts “that expend \$25,000 or more are to be signed by the Chief Financial Officer and the Superintendent.” Please explain why you personally executed this contract.
7. Please identify the funding source(s) for this contract.
8. Why does the contract not include a “not-to-exceed” clause as required by State Board policy CNTR-002?
9. Why does the contract not include a choice of law provision as required by State Board policy CNTR-002?
10. Why was it necessary to pay for a report that staff at DPI could have prepared or that SREB or another nonprofit organization could have done free of charge? Please provide a justification for all costs and deliverables outlined under the contract, including why there is a \$3,600 charge to present at the State Board meeting and explain how you determined the additional 10% (\$2,802) for Indirect Costs. Please identify these Indirect Costs.
11. Please identify all individuals who provided any assistance in drafting, negotiating, or advising on this contract or communicating with SREB about engaging in this work.
12. Please confirm whether or not all involved individuals adhered to State Board policy SBOP-026 and that no conflicts of interest exist regarding this contract.

From: Mark Johnson
Sent: Wednesday, March 4, 2020 2:21 PM
To: SBE Members and Advisors <SBEMembersandAdvisors@dpi.nc.gov>
Cc: Eric Snider <Eric.Snider@dpi.nc.gov>
Subject: FW: SREB contract?

State Board members – below are the questions I referred to at the meeting. DPI would appreciate answers.

Thank you,
Mark

NC Superintendent
North Carolina Department of Public Instruction

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From: Mark Johnson
Sent: Wednesday, February 26, 2020 6:36 AM
To: Eric Davis <Eric.Davis@dpi.nc.gov>; Eric Snider <Eric.Snider@dpi.nc.gov>
Cc: Alan Duncan <Alan.Duncan@dpi.nc.gov>
Subject: RE: SREB contract?

Answer the questions, Mr. Davis.

Mark

NC Superintendent

North Carolina Department of Public Instruction

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From: Eric Davis <Eric.Davis@dpi.nc.gov>
Sent: Wednesday, February 26, 2020 6:20 AM
To: Mark Johnson <mark.johnson@dpi.nc.gov>; Eric Snider <Eric.Snider@dpi.nc.gov>
Cc: Alan Duncan <Alan.Duncan@dpi.nc.gov>
Subject: Re: SREB contract?

Mark – All agree that the Board’s contract rule and state procurement rules must be followed. State agencies and vendors are all on notice that agreements that do not meet these rules to the letter are void from the outset. As my last email indicated, we are taking steps to satisfy all contracting formalities. Representatives at SREB, the Department of Justice, and the Department of Administration have already been contacted. Eric Snider will be contacting individual Board Members about this matter in the morning. We will coordinate with these entities and the Department, as needed, to move forward under the law and Board policy.

I look forward to having a constructive conversation with you about these matters during our bi-weekly meeting at 10:00 this Friday.

Eric C. Davis
Chair, Member-At-Large
NC State Board of Education
704-651-0217

From: Mark Johnson <mark.johnson@dpi.nc.gov>
Sent: Tuesday, February 25, 2020 4:13:07 PM
To: Eric Davis <Eric.Davis@dpi.nc.gov>; Eric Snider <Eric.Snider@dpi.nc.gov>
Cc: Alan Duncan <Alan.Duncan@dpi.nc.gov>
Subject: RE: SREB contract?

Eric – you answered none of my questions, which only adds to my concerns.

Please respond before tomorrow with answers to all of my questions.

Of course we are not moving forward with the requisition for this illegal contract. But that is only because DPI caught it.

Please try to help me understand what happened before I report this. If I can’t get answers from you, I will have to report based only on the facts I have.

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11. Please identify all individuals who provided any assistance in drafting, negotiating, or advising on this contract or communicating with SREB about engaging in this work.
12. Please confirm whether or not all involved individuals adhered to State Board policy SBOP-026 and that no conflicts of interest exist regarding this contract.

From: Eric Davis <Eric.Davis@dpi.nc.gov>

Sent: Tuesday, February 25, 2020 4:56 PM

To: Mark Johnson <mark.johnson@dpi.nc.gov>; Eric Snider <Eric.Snider@dpi.nc.gov>

Cc: Alan Duncan <Alan.Duncan@dpi.nc.gov>

Subject: Re: SREB contract?

Mark - Thank you for your message. The submission of a requisition to DPI purchasing was premature. We agree that CNTR-002 and procurement rules must be followed and we are taking steps to address items identified in your message. Along with our counsel, we are making courtesy calls to the Southern Regional Education Board, the Department of Administration, and the Department of Justice. Please halt any further action with respect to the requisition.

As you know, SREB is one of North Carolina's important thought partners in public education. North Carolina is one of the member states in the SREB compact, and the State Board recognizes the value of our state's long-running relationship with this non-partisan group. SREB has a unique ability to convene and engage decisionmakers and the capacity to conduct deep analysis on a deadline. These features are among the reasons SREB was a natural partner for work related to Leandro and the State Board's review of school performance grades, as directed by HB 362. Those efforts, of course, have involved (among others) senior leaders from the Department of Public Instruction and school districts. This public work culminated in a presentation at last month's State Board meeting and a unanimously-approved submission to the Joint Legislative Oversight Committee.

Again, thank you for bringing this to our attention.

Eric C. Davis
Chair, Member-At-Large
NC State Board of Education
704-651-0217

From: Mark Johnson <mark.johnson@dpi.nc.gov>
Sent: Monday, February 24, 2020 3:45:52 PM
To: Eric Davis <Eric.Davis@dpi.nc.gov>; Eric Snider <Eric.Snider@dpi.nc.gov>
Cc: Alan Duncan <Alan.Duncan@dpi.nc.gov>
Subject: SREB contract?

Eric D. and Eric S. –

Last week, DPI purchasing received a requisition to pay the Southern Regional Education Board for the attached contract between the NC State Board of Education and SREB. DPI can't find a record of this contract being reported to DPI or to the State Board per CNTR-002. Pursuant to State Board policies and state law, I have an obligation to ensure that all contracts are valid and legal. I also have obligations to report potential violations to the NC Department of Administration and the NC Department of Justice.

There are multiple issues that hopefully you can help us clear up. Please respond with answers to these questions before close of business tomorrow (Tuesday 2/25). Thank you. Mark

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