



Minutes

Executive Committee Meeting
April 28, 2010; 10:00 a.m.
ELC Board Room

Committee Attendees: Octavio A. Verdeja; Yvonne Johnson; Gerald Schwartz; Bud Park

Committee Absentees: Yesenia Perkins

Staff Attendees: Leeana Pena; Evelio Torres; Mercy Castilonge

General Attendees: Silvia La Villa, Ed.D; Danny Armstrong Ph.D.

I. Welcome and Introductions Chair	Octavio A. Verdeja, Jr.,
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- O. Verdeja welcomed everyone to the Executive Committee meeting.

II. Approval of Minutes Chair	Octavio A. Verdeja, Jr.,
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- G. Schwartz moved to approve the minutes from 02/10/10.
- Motion seconded by Y.Johnson
- Motion unanimously passed.

III. Conflict of Interest	Santiago Echemendia, Board Attorney
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- Santiago Echemendia stated on page 6 what is called the voting conflicts of interest for elected local officials, one of the things that was raised is that the ELC Board is considered local officials under the Florida Statutes. Unlike the Children's Trust that at the beginning of the agenda has a housekeeping item where the chair goes around the room and says who has a conflict and that conflict is declared and then they signed what is called an AB form. The ELC Board has not been doing that. State agencies around the state do that, and it is a requirement of law. So they are recommending that at the beginning of the meeting Octavio, as an initial housekeeping item, that the agenda include a declaration of conflicts where folks go around the room and say "I have a conflict relative to 4 and 5, I may engage in the deliberations, I may not vote" depending on what that conflict is. The state form is what he calls a crayon version. It is fairly elementary and walks you through in a very simplistic fashion to whether you have a conflict or not. The form which is the AB form is contained in page 10 and 11 of the agenda. You are required to sign the form within 15 days of the vote. It does not have to be done right there. One of the things that is typically done to facilitate whether you think you have a conflict or not is called a conflict sheet that goes through all of the agenda items and highlights who all of the stakeholders are. All you would have to look at is that stakeholder sheet to determine if you have a conflict on a particular item, someone would give you an AB form for you to sign it there or sign it within 15 days.



- O. Verdeja asked for example, if Danny Armstrong has a conflict with the University of Miami, does that mean that every single time that they have a meeting that has anything to do with the University of Miami; he has to declare that conflict at every single meeting?
- S. Echemendia stated if there is going to be a vote on an item that is going to be of consequence to the University of Miami, he may very well have to say relative to that particular item, I work for the University of Miami, I therefore have a conflict, I may or may not engage in the vote depending on what the schematic says relative to what the issue is.
- E. Torres asked even if he is not a voting member?
- S. Echemendia stated the ethics commission has not issued an opinion on non-voting members. The current opinion is that non-voting members do not even have to disclose a conflict, you can engage in the deliberations and then you don't vote.
- E. Torres stated what they do at the Trust is if there is anything on the Early Learning Coalition coming up, they ask us to declare a conflict before the vote and then they distribute the forms and you fill them out there and then.
- O. Verdeja stated he doesn't have a problem with that, the only thing is if someone doesn't declare a conflict because they weren't paying attention or they don't think about it and its on the record they didn't declare a conflict. If this is better, then this is better.
- E. Torres stated he is not sure if this is better. He thinks it is something that requires a little bit of discussion as to whether the Board wants to adopt or not or keep the current system.
- O. Verdeja asked if this mandated. If this is the way it's done because of state rules, then so be it. That's the way it should be done.
- S. Echemendia stated it is a state requirement. He thinks all the Board members are aware now that if they have a conflict they need to declare it. It's not really done in a systematic fashion. This is just implementing it in a systematic fashion. It's just an abundance of caution, delicately bringing it to their attention. It's probably a good practice to adopt.
- E. Torres stated that it was also part of the KPMG internal control audit that they want ELC to develop a better process.
- D. Armstrong asked what it is about the nature of this organization that defines it as a state agency. S. Echemendia stated not a state agency. The Board members are defined as local officials and therefore the AB disclosure applies under the statute.
- D. Armstrong asked for clarification since they are not local officials and are not elected. S. Echemendia stated under the statute 411 they came to the conclusion that the Board is elected officials and conferred with the ethics commission who indeed conferred that they are elected officials.
- O. Verdeja asked if that is only for the ELC or members of other Boards like The Children's Trust. S. Echemendia stated it is the case with state boards throughout. Regardless of what Board you're on, if it's a Board that makes recommendations or votes where there is going to be a monetary gain to an entity that may inure to the benefit of a Board Member you're captured under the Florida Statute relative to conflicts of interest and a declaration relative to a conflict of interest.
- O. Verdeja asked S. Echemendia to look into why the ELC functions like a government organization although they are incorporated as a not-for-profit. S. Echemendia the ELC is a not-for-profit from a tax perspective otherwise, they



are a creature of statute that is governed because they get state and federal dollars, ELC comes under the rubric of a creature of 411 and therefore subject to all of those regulations.

- G. Schwartz asked if conflicts of interest are all based on economic benefit. S. Echemendia stated yes.

IV. Revised Procurement Process Attorney	Santiago Echemendia, Board
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- E. Torres stated this issue is to answer the question if a Board Member leaves the ELC Board of Directors, how long would they have to wait before they can do business with the Coalition.
- S. Echemendia stated the basic answer is there is no wait period. Unless the Board adopts a two-year rule, but there is no two-year rule for this Board. If a Board member is trying to get hired by the ELC as a consultant, once they step down, you don't have a two-year rule. However, if that Board member were to lobby on behalf of a different entity to get a contract, the state statute would prohibit them for doing that and they would be subject to the two year wait period.
- E. Echemendia moved on to the RFP discussion and started with the issues that were raised relative to their most recent procurement, their findings and recommendations, some recent questions raised by Melody, the Contracts Manager and some additional suggestions. He stated on page 15, one of the predominant issues that were raised was evaluation committee members scoring proposers with zero representing no value and no response. One of the things they learned, conferring with numerous sources, they have concluded in most instances, having a discussion by evaluation committee members regarding an evaluator that scores someone with a zero, and or even a high score, could actually bring to light further discussion that is important to the evaluation committee. Maybe one of the things we fell short in doing was during the evaluation committee meeting we simply took the scores and moved those scores forward without a consensus report, without a recommendation by the evaluation committee, without discussion. The recommendation is what we should be doing differently is not staff reaching out to that evaluator privately, but that there be this discussion at the evaluation committee meeting that would hopefully result in a consensus report and a discussion. It would be a publicly noticed meeting with minutes.
- D. Armstrong stated that they need to make a statement that whatever voting or grading process is used, the product should be the vote of the raters all taken together as a committee whether it's unanimous or split. That's what they should be looking at rather than the actual ratings. The ratings are only a source of information. S. Echemendia agreed and stated that was another one of their recommendations.
- D. Armstrong stated furthermore, the ratings are not reliable or valid in any statistical sense. There has been no valid way to determine the weighting of different items within the items itself. Some items are more important than others.
- S. Echemendia stated on page 16 the National Institute of Government Purchasing asks that when there isn't a unanimous decision and only a consensus opinion has resulted, the evaluation committee should go forward with the majority and minority report. He also recommended this going forward. There Finance Committee and the full Board have the benefit of not just the ranking but of the discussion and the report coming out of the evaluation



committee. This is the best practice coming out of the National Institute of Government Purchasing.

- The next recommendation that they would like to see is, they have come to the conclusion that oral presentations would be beneficial to the evaluation committee. Indeed sometimes, you see in procurement where the Board or Finance Committee desires to see the presentation as well. They are suggesting it would be a good practice so they get to see not only in writing, what does this team look like, how to they convey, they are going to be interacting with our children etc, and providing services to the Early Learning Coalition. O. Verdeja agreed that he is 100% for oral presentations. It doesn't have to be long, but it makes a huge difference when selecting someone. D. Armstrong stated the other thing is that being in a vendor capacity in totally different situations, sometimes in the bidding process; you've got to go through so many hoops. The committee should decide whether it wants to see an oral presentation or the Board. You ought not to require the vendors to do oral presentations more than once in the process. O. Verdeja agreed.
- E. Torres stated two additional concerns that were mentioned as part of this process. One was the graders and their notes, whether they should be taking notes as they evaluate each of these proposals so there is additional information if someone wants to know why a proposal was rated as zero. If there were notes to justify why someone got a zero or a five. D. Armstrong stated he thinks what they need is a vote at a public meeting that is recorded and the discussion at the public meeting is what the documentation should be as to not just shine the light on any particular individual.
- E. Torres stated the third one was whether past performance should be taken into consideration for points.
- S. Echemendia agreed that the graders should not put their individual comments. They don't recommend that because they don't want to create a bid protest. There needs to be ample discussion.
- S. Echemendia stated they do recommend an outside expert on the evaluation committee to the extent it's feasible. For comments to the score, it is not practical to put comments relative to each and every score and for a number of other reasons they do not recommend it. Criteria regarding existing vendors, that is done as part of the responsibility review after the fact. Because not all vendors are existing vendors, you can't have criteria how they've been performing because that criterion does not apply to those who aren't existing vendors. Once you have evaluated the criteria to the extent that you have recommended a vendor as part of the after the fact responsibility review, before there's a recommendation for award, staff looks at it and reviews performance and there could be a second consideration. There is a review of existing practices but not part of the evaluating criteria. He would recommend using recommendations in the after the fact responsibility review.
- S. Echemendia continued with other issues: There was concern that once the RFP has been issued and you are in the cone of silence, should Board be discussing with staff and/or evaluation committee members, issues regarding the RFP and the answer is no and it must be done in writing just like everyone else that complies with the cone of silence. The non-public meetings discussion on procurement, the meetings are all public (minutes need to be taken), with the exception of strictly fact finding. That is the only exception under Sunshine. Minutes need to be taken. Recording is beneficial though.
- S. Echemendia stated there was also a question regarding training on procurement matters in conflict of interest. Workshopping these things would always be a good thing. D. Armstrong asked if he was referring to evaluators. S.



Echemendia stated no, Board Education and training on procurement matters. D. Armstrong asked does it put too much heat on inside employees as evaluators or should they have outside or should it be mixed? S. Echemendia stated they recommend it to be mixed to have one or two outsiders.

- S. Echemendia stated lastly they recommend a review of the RFP process prior to the issuance of the award. One other thing that is important is debriefing unsuccessful proposers. It gives an opportunity to hear their potentially legitimate grievances, insight as to why they weren't chosen so they can do things better with next time. It recognizes their effort and expense. It may be beneficial to both sides. Instead of just the ratings, there also should be a recommendation coming out of the evaluation committee after that discussion regarding the zero scores. With that they improve our process and address the issues that were raised in this last procurement.
- D. Armstrong asked about the past performance of a contractor relative to this organization. It seems to him that the staff, before it goes to a rating committee, should be able to disqualify any potential applicant based on poor performance. S. Echemendia stated they could in fact render an opinion that they are irresponsible. D. Armstrong what liability would they pick up by doing that. Could the vendor sue the Coalition? S. Echemendia stated no, the Coalition has that discretion. He would like to confer with Miriam to find out more intelligence.
- S. La Villa asked that in the current process they have they get the Board's approval to release the RFP and then they have a final internal review by the committee? Or is the Board just approving that they are releasing an RFP? E. Torres stated yes, they get approval to release the RFP and then they come back to the Board again with a recommendation and the Board gives ELC the authorization to contract with the selected vendor. S. La Villa was referring to the actual document to which S. Echemendia stated it needs to be transposed better.
- S. La Villa commented that employees may also have a former history with potential vendors and may have a potential conflict. She thanked them for inviting her to the meeting.
- S. Echemendia stated he would like to look at the conflict of interest form to see if it needs beefing up to address the very issue S. La Villa is raising.
- M. Thelwell stated they typically ask for two years. It has happened in the past. They definitely go through that in the pre-meeting before they release the RFPs.
- E. Torres asked to verify that they are not ready to move any of this to the Board yet. Everyone agreed that there needs to be additional cleanup before having it moved to the Board.

V. President/CEO's evaluation Chair	Octavio A. Verdeja, Jr.,
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- O. Verdeja stated they had the CEO evaluation in the packet and the lowest score he received was 9.5 out of 10. He congratulated Evelio and thanked him for all he has done in the past few years for the Coalition. He has continued to impress them not only in the first year but over the past few years as well.
- E. Torres expressed his appreciation and stated the Coalition has an excellent team and a great Board. They continue to have great discussions at the Board and Committee meetings and that is part of what makes this organization work. They have some really difficult decisions and they come up with good solutions. It's not a one man job, it requires a team, the board members and community partners and that is the reason why this organization has been successful. He thinks they are starting to lead the state in a number of different areas and are



looking to the Coalition for guidance. They certainly couldn't do it without a collaborative process.

VI. Public Comments Chair	Octavio A. Verdeja, Jr.,
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VII. Adjourn Chair	Octavio A. Verdeja, Jr.,
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