

Legislative Audit Commission

RESOLUTION NO. 138

Presented by Representative Mautino

WHEREAS, the Governmental Joint Purchasing Act authorizes governmental units to purchase personal property, supplies, and services jointly with one or more other governmental units through a competitive bid process;

WHEREAS, the Governmental Joint Purchasing Act provides that when the State of Illinois is a party to the joint purchase agreement, the Illinois Department of Central Management Services (CMS) shall conduct the letting of bids;

WHEREAS, on June 20, 2008 CMS issued Solicitation No. 222600 (the "Original Solicitation") requesting bids for bulk rock salt to be used for ice control by the Department of Transportation, the Illinois State Toll Highway Authority, other State agencies, and over 700 units of local government in 98 counties statewide (the "pool participants");

WHEREAS, responses to the Original Solicitation were due on July 16, 2008; responses were submitted by four vendors, but none of the responses received by CMS for the Original Solicitation contained bids for the salt requirements for the majority of the pool participants located in Cook County, or for any of the pool participants located in Boone, Lake or McHenry County;

WHEREAS, the winning bids for pool participants that received bids in the Original Solicitation ranged from \$46 per ton to \$141 per ton, with some pool participants who are situated close to each other geographically receiving widely disparate bid prices;

WHEREAS, on July 25, 2008, CMS issued Solicitation No. 223231, a Supplemental Re-bid seeking bids for the salt requirements of the pool participants in Cook, Boone, Lake and McHenry County ("the Re-bid");

WHEREAS, responses to the Re-bid were due on August 12, 2008; responses to the Re-bid were submitted by three vendors and covered certain pool participants in Cook, Boone and McHenry County, with bids ranging from \$96 to \$171 per ton;

WHEREAS, on August 19, 2008, CMS advised the remaining pool participants in Lake and McHenry County that, if they wished CMS to continue efforts to procure salt for them, they would have to commit to a price per ton in the range of \$145 to \$165; and

WHEREAS, on August 21, 2008, CMS awarded contracts in a total amount of \$182,293,805.48 to the four vendors that responded to the Original Solicitation, notwithstanding the vendors' failure to submit bids for the salt requirements of the pool participants in Cook, Boone, Lake and McHenry County;

WHEREAS, on August 28, 2008, certain pool participants in Lake and McHenry County submitted a bid protest, claiming, pursuant to the Governmental Joint Purchasing Act and the Illinois Procurement Code, and the rules promulgated thereunder that; (1) the proposals submitted in response to the Original Solicitation were materially incomplete due to their failure to provide bids for the salt requirements of all governmental units participating in the joint procurement; (2) CMS should have rejected the bids as non-responsive; and (3) CMS should conduct an investigation into the bidding activities of the responding vendors to ensure that the vendors complied with all applicable State laws;

WHEREAS, on August 29, 2008, CMS awarded \$19,564,788.68 in contracts to two of the three vendors responding to the Re-bid, notwithstanding their failure to submit a bid for the salt requirements of the pool participants in Lake and McHenry County in either the Original Solicitation or the Re-bid;

WHEREAS, on September 4, 2008, CMS issued a no-bid, emergency purchase award in the amount of \$8,597,382.32 to one of the vendors that had received an award under the Original Solicitation and submitted a response to the Re-bid, but had not submitted a price for pool participants in Lake or McHenry County in either solicitation;

WHEREAS, information in the press indicates that certain local governments not participating in the joint procurement, but located in geographic proximity to certain pool participants, were able to obtain bulk rock salt at more competitive prices than the pool participants;

WHEREAS, because a sealed bid process was used by CMS, bid documents are not accessible, and CMS has not provided information that would explain the price fluctuations for rock salt within and outside of the joint purchasing pool; therefore

BE IT RESOLVED, BY THE LEGISLATIVE AUDIT COMMISSION that the Auditor General is directed pursuant to Section 3-2 of the Illinois State Auditing Act to conduct a management audit of CMS' joint purchasing procurements of bulk rock salt in 2008 to determine whether good procurement practices were exercised in accordance with applicable State laws and rules; and be it further

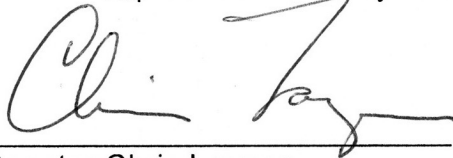
RESOLVED, that the audit include, but not be limited to, the following determinations:

- Whether the procurements complied with applicable State laws and rules;
- Whether the procurements were done in a timely manner;
- Whether the prices paid as a result of the procurement process were significantly higher than those paid by neighboring states or local governments that did not participate in the CMS joint procurement process; and

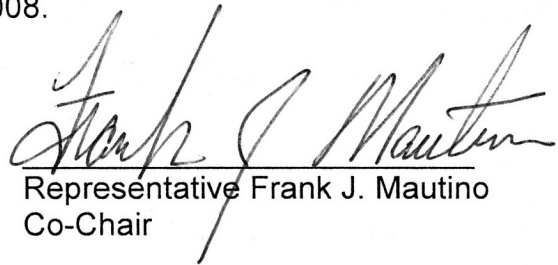
BE IT FURTHER RESOLVED, that the Department of Central Management Services and any other State agency, entity, or person that may have information relevant to this audit cooperate fully and promptly with the Auditor General's Office; and be it further

RESOLVED, that the Auditor General commence this audit as soon as possible and report his findings and recommendations upon completion in accordance with the provisions of Section 3-14 of the Illinois State Auditing Act.

Adopted this 11th day of December, 2008.



Senator Chris Lauzen
Co-Chair



Representative Frank J. Mautino
Co-Chair