

The ABC's of Awarding State Contracts.(Connecticut Weekly Desk)

by Jane Gordon

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USING tools familiar to the construction industry, federal investigators appeared at the home of Lawrence Alibozek, former deputy chief of staff to Gov. John Rowland, last fall, armed with shovels and ready to dig. What they found - more than \$12,000 in gold buried in Mr. Alibozek's yard - began an investigation into large state contracts and how they were awarded.

Mr. Alibozek pleaded guilty on March 10 in federal court to steering three state construction contracts to the Tomasso Group, a New Britain-based construction company, in exchange for gold and money. Those contracts were the Bradley Airport parking garage in Windsor Locks, the Superior Court and Center for Juvenile Matters in Bridgeport and the Connecticut Juvenile Training School in Middletown.

Mr. Alibozek's guilty plea sparked further federal investigations into state contracts involving members of the administration of Gov. John Rowland and fueled a controversy surrounding his payment of discounted rates at vacation homes owned by the Tomasso family.

The controversy has raised questions about how the state awards contracts and whether there is enough oversight in the process, especially when they are awarded without competitive bidding. While the process can be confusing (the Department of Public Works has 11 ways to select companies), most large contracts are awarded in a straightforward way.

For all projects costing more than \$500,000, the public works department places advertisements at least once during the bidding process in one or more newspapers that circulate in each county in the state. Companies who have been pre-approved by the state then submit their bids and the lowest bidder usually wins. About 80 percent of the department's projects are awarded through this system.

In calendar year 2002, the Department of Public Works started 22 projects. Fifteen of those cost more than \$500,000. More than \$127 million will be committed to them.

"The formal process is very much controlled because it's competitively bid," said Bruce Bockstael, chief architect for the Department of Public Works.

But it's the so-called no-bid process that has come under intense scrutiny. It is actually called "special legislation" and allows for the public works commissioner to select

three companies from an approved list of contractors once the legislature approves such a move. A panel then picks the contractor from the three recommended. The department, which said no no-bid contracts were issued in 2002, said it usually awards about two a year.

"Quality of past experience and staff are the most important aspects," in selecting a contractor, a Department of Public Works document states. Cost is not a factor, and there is no competition. A selection panel typically made up of the project manager, past managers and Department of Works employees reviews proposals and interviews contractors. Contractors are assigned points. The contractor with the most points wins the contract.

The process has become known as "fast tracking," because it is typically used when the state is in a hurry to start, and complete, a project. About 3 to 4 percent of Department of Public Works projects are fast-tracked, Mr. Bockstael said. He used the construction of the Hartford Community Court as an example of a fast-track project handled by the Department of Public Works.

"The judicial department had to have a community court in place in a short time, according to a court order," Mr. Bockstael said. "We selected an architect and construction manager to get going and fast track the project so we could be in the building in six months."

If the department had pursued the formal bid process, he said, just the advertising and interviewing would have taken three months. "Quite often, we select people who have done work of comparable size and expertise," he said. "For the architect, engineer and construction manager, we have an interview, ask them if they are interested, and make a selection based on the normal interview process. So that's where we change the rules."

But that flexibility also opens the door for potential improprieties, said a Hartford lawyer who specializes in construction practices.

"The problem is that there are many ways to avoid the normal competitive bid process in Connecticut," said David Rosengren, who heads the construction and surety practice group at Pepe & Hazard in Hartford.

Reasons vary for fast tracking a project, from prison crowding to a court order. "In a perfect world, fast tracking should work perfectly," said John E. Osborn, a New York lawyer whose practice includes a focus on construction contracts. "But one or two vendors have an inside track because the options are fewer. Those same players come

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to the table, and they probably gave money to somebody's campaign, and they call up and get access to what's going on and once they know what's going on, that information can be worth millions."

In the early 1990's, the state legislature amended the law governing construction contracts to allow for fast tracking. Since then, the legislature has designated eight construction jobs as fast-track projects: The Hartford Community Court, the Connecticut Juvenile Training School in Middletown, Capital Community College in Hartford, the Homer Babbidge Library at the University of Connecticut, Fort Trumbull State Park, juvenile detention centers in Hartford and Bridgeport, the MacDougal Correctional Institution and a Connecticut State University dormitory, according to a report by the Office of Legislative Research. Six of the projects are complete. The Hartford Juvenile Detention center is under construction, and the Bridgeport Juvenile Detention Center and the Connecticut State University dormitory project are in negotiations.

The process that awarded the Tomasso Group the contract for the Connecticut Juvenile Training School, a \$53 million project, is being investigated by federal authorities, along with a multitude of other state contracts involving the Tomasso group. The Department of Public Works had gone to the state legislature in 1999 to request permission to fast track the project, said State Representative James O'Rourke, who is co-chairman of the legislature's Government Administration and Elections Committee, which oversees the state purchasing, leasing and bidding process.

"We relied on the state agencies assuring us that these were emergencies," he said of the fast-track projects. "One of the most controversial was the Connecticut Juvenile Training School, but the argument was made that we've got to fast-track this project to care for the kids in a residential setting."

William A. Tomasso, president of the Tomasso Group, was the only construction contractor present on a trip to Ohio in 1998 with Connecticut officials viewing a juvenile school project there. The trip was made before the selection process for the training school had even begun.

Once Mr. Alibozek's guilty plea became public, Mr. O'Rourke began to investigate the bidding process. His Government Administration and Elections Committee heard testimony from state employees involved in the construction contract process. It also has studied bidding requirements in other states and suggested improvements to state laws.

"Our goal here is to stop people who are engaged in

misusing taxpayers' money," Mr. O'Rourke said. "We intend to make it a lot harder for people to pull this kind of shenanigans."

On April 7, his committee forwarded new rules for contracts to the state legislature that would install more outside oversight to the selection process. Although many of the reforms are already part of state laws or regulations in one form or another, including a clarification that state ethics rules apply to officials who have the authority to award contracts, an official at the Department of Public Works said it was prepared for any oversight.

"The legislature has asked us to set up a system where we are using outside resources -- professional services, engineers, architects who are not a part of the Department of Public Works -- for independent outside review or participation in the selection," said Mr. Bockstael, the public works department's chief architect. "I think these are the measures that people are looking for us to do, and we're willing to do that because we really do believe that although the processes we have in place are good now, if they want to make them a little better, we're not going to resist."