

**CITY OF CAMBRIDGE
INTEROFFICE MEMORANDUM**

TO: Robert W. Healy, City Manager

FROM: Gail Cohen, Purchasing Agent 

DATE: April 22, 1996

RE: Council Order #050 dated 3/25/96 RE: COMPLIANCE WITH THE
RESPONSIBLE EMPLOYER
ORDINANCE

GENERAL BIDS

General Bids for the Construction of the Frisoli Youth Center were opened on March 14, 1996. The apparent low bidder was Charlesgate Construction. Charlesgate signed and included the Responsible Employer Plan certificate in its bid. On March 15 the Purchasing Department wrote Charlesgate asking for confirmation that Charlesgate maintained or participated in an apprenticeship program as required by the Responsible Employer Plan. On March 22 Charlesgate faxed a letter to Purchasing that stated Charlesgate did not intend to comply with the Responsible Employer Plan as it was "clearly a violation of state and federal laws" and furthermore Charlesgate would protest if the contract were awarded to another bidder.

On March 26, the next low general bidder, W.T. Rich Company, was awarded the contract. On March 28, Charlesgate was debarred from bidding on Cambridge projects for three years since it provided demonstrably false information in its bid.

On April 4 the Purchasing Department received a fax from the Office of the Attorney General, scheduling a bid protest hearing, at Charlesgate's request, for April 19.

On April 19, a bid protest hearing was held at the Office of the Attorney General, attended by the City Law Department, the Purchasing Department, the Carpenter's Union, W.T. Rich Company and Charlesgate. The bid protest centered around the following issues: Charlesgate claimed that sections 3 and 4 of the Responsible Employer Plan were preempted by both state and federal (ERISA) law; and, Charlesgate claimed that it had been unfairly debarred since it did intend in the future to comply with the Responsible Employer Plan. The City asked that the ERISA issue not be considered and stated that the Awarding Authority has great discretion in accepting and rejecting bids.

The hearing officer stated she would notify the parties as to whether the ERISA issue would be considered at the beginning of the week of April 22. The City shall have two weeks from that date to file a brief in response to that filed by Charlesgate. The hearing officer will issue a decision two to three weeks from receipt of the City's brief.

No further action regarding contract award may take place while this issue is pending before the Office of the Attorney General.

FILED SUBBIDS OVER \$25,000

The filed subbid for metal windows, Chandler Architectural Products, is affiliated with and maintains an apprenticeship program through the Rhode Island/Connecticut/Western Mass. Glaziers Union. Chandler agreed in writing to use Glaziers and apprentices on the project who are affiliated with a Massachusetts union.

If you need additional information concerning this issue, please call me.



EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300
FAX. 349-4307

April 29, 1996

To The Honorable, The City Council:

Please find attached a response to Awaiting Report Item No. 23, regarding compliance with the Responsible Employers Ordinance, received from Purchasing Agent Gail Cohen.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Robert W. Healy", is written over a horizontal line.

Robert W. Healy
City Manager

RWH/mec
attachment

Consent Agenda #4

5-231

Relative to Awaiting Report
Item number 23, regarding
compliance with the Responsible
Employers Ordinance.

In City Council April 29, 1996

Placed on file.