



November 19, 2012

Ms. Joyce Turner
Director
Washington State Department of Enterprise Services
P.O. Box 41401
Olympia, WA 98504-1401

Re: Contract #01507 with KONE, Inc.

Dear Director Turner:

I met with Assistant Director for Contracts and Legal Services Roselyn Marcus and Chief Procurement Officer Christine Warnock from the Department of Enterprise Services (department) regarding the state's contract with KONE, Inc. for elevator and escalator repair, service, and maintenance statewide. I appreciate the department taking the time to brief me on this contract. However, I remain concerned about the handling of this contract and the resulting expense the department has imposed on taxpayers without providing adequate justification.

This contract has the ability to be extended by department employees for a 15-year period without competitive bidding using a process that needs improvement. Such a lengthy term is contrary to public policy that is meant to ensure state purchasing is based on competition.

The nation entered a recession in December 2007, and the Legislature has had to cut budgets, down-size agencies, and freeze employee salaries during the last five years. Voters have rejected multiple attempts to raise taxes because they do not want to pay to inflate government programs. Private sector labor costs fell during the recession. For all of these reasons, I was extremely disturbed to see the department authorized annual price increases on this contract. Below is the table of increases to the contract copied from documents provided to me by the department:

A. Pricing Change:	Amendment #	Effective
1) Increase monthly maintenance pricing by 4%	18	8-01-09
2) Port of Seattle, Sea-Tac Airport – <i>add staffing hours and increase pricing to reflect the change</i>	28	3-01-10
3) Increase monthly maintenance pricing by 2.64% and billable rates by 4.69%	38	8-1-10
4) Increase monthly time and material billing rates by 4%	69	9-1-11
5) Increase monthly maintenance pricing by 4%	70	9-1-11
6) Increase monthly maintenance pricing by 4%	97	9-1-12

In 2010, this contract was extended without competitive bid. WAC 200-300-160 requires:

"The decision to pursue a contract extension shall include a review of price competitiveness, changes in the marketplace for such commodity or service, and/or other relevant factors."

A review of the materials in the file used to justify the extension relied on an article published in January 2008 written by a consultant for a company that operates in Las Vegas and California. The article was published the month after the recession started and was not representative of the fiscal situation here in Washington more than two years later. In 2010, we were in the midst of the recession and the marketplace had significantly changed. Yet, these pivotal factors went unmentioned when granting the contract extension. The department's reasoning in the Memo To File dated March 18, 2010 was this:

"It's virtually impossible to compare elevator maintenance costs because I don't know the age, condition, or maintenance record of a particular conveyance and all these things are taken into account when attaching pricing conveyance. Because it would be comparing apples to oranges, I found and used an article written by an elevator consultant titled "Are You Paying Too Much for Elevator Maintenance?" to see if our pricing is competitive.

This article details what the consultant believes to be a good and fair price for a hydraulic elevator under a full maintenance contract. The consultant's total recommended cost is \$299.69 a month. He also notes that most contracts have an escalation clause of 6% each year. This article was written in January of 2008, so I added 6% to his total for a new total of \$317.67.

This contract has around 500 conveyances on it. When you take out the extremely unique State Ferries and SeaTac airport (pricing is higher because of their situations, and SeaTac has dedicated staff), you have about 300 conveyances left on the contract. Out of those 300 conveyances, 24 exceed the \$317.67. Twenty four conveyances represent 8% of 300

conveyances, and 5% of 500. Using this data, it's my opinion that we have competitive pricing."

The file includes no information from businesses operating in Washington near the time of the extension date. For 2009 and 2010, the U.S. Department of Labor data shows the producer price index for elevators and moving stairways was dropping, not increasing.

This contract has been amended multiple times to allow different state and local government agencies the ability to use the contract. In multiple cases, those government agencies had contracts with other businesses to do similar work which was known to the department at the time. The department's approval facilitated a premature end to those prior contracts. I am very concerned by the potential cost to taxpayers by allowing interference with existing contracts. I would like to better understand the department's policies surrounding such amendment approvals. I urge you, as director, to consider adopting policies whereby the state can refuse to allow use of services provided under such a contract if it will facilitate the breach of an existing contract or cause taxpayers to have to pay additional costs for already contracted services.

This contract expires on April 30, 2013. I would like the department's commitment that this contract will be submitted for competitive bid in accordance with RCW 43.19.1906. I encourage the department to change its policy so that no extension or cost escalation is approved by the department without using actual data from businesses located in Washington within a month or two of an extension to support such increases.

Sincerely,



Cathy Dahlquist
State Representative

Cc: Jennifer Ziegler, Office of Governor Christine Gregoire
Brad Smith, Transition Co-Chair for Governor-Elect Jay Inslee
Roselyn Marcus, Assistant Director for Contracts and Legal Services, Department of Enterprise Services
Christine Warnock, Chief Procurement Officer, Department of Enterprise Services
Tim Gugerty, Legislative Liaison, Department of Enterprise Services
Representative Sam Hunt, Chair, State Government & Tribal Affairs Committee
Representative David Taylor, Ranking Member, State Government & Tribal Affairs Committee
Representative Ross Hunter, Chair, Ways & Means Committee
Representative Gary Alexander, Ranking Member, Ways & Means Committee