

BOARD DECISION
PSC 97-01
APRIL 22, 1997

WHEREAS, Government Code section 19132 and Public Contract Code section 10337 require the State Personnel Board ("Board") review and approve personal services contracts let under the provisions of Government Code section 19130(b) at the request of an employee organization that represents state employees;

WHEREAS, on September 23, 1996, the Association of California State Attorneys and Administrative Law Judges ("ACSA"), an employee organization that represents state employees, requested that the Board exercise its authority under Government Code section 19132 and review a contract for legal services between the Department of Transportation ("Caltrans") and the law firm of Irell and Manella in connection with the action entitled Professional Engineers in California Government v. Department of Transportation, California Supreme Court Docket No. S042591;

WHEREAS, the parties were provided with the opportunity to present evidence and argument in support of their positions, as set forth in Exhibit 1 hereto;

WHEREAS, on April 8, 1997, ACSA and Caltrans, through Irell and Manella, presented oral argument before the Board in support of their positions;

WHEREAS, on April 8, 1997, Caltrans, through its attorneys, submitted additional documentation to the Board in support of its position (Exhibit 2 hereto);

WHEREAS, the Board has considered the written and oral arguments of the parties;

(continued - Page 2)

WHEREAS, at its meeting of April 8, 1997, the Board voted unanimously to disapprove the contract for legal services between Caltrans and Irell and Manella on grounds that:

1. The contract does not meet the requirements of Government Code section 19130(b)(5) in that Caltrans has not established that civil service attorneys have a conflict of interest that would prevent Caltrans from accomplishing its legal goals through representation by civil service attorneys in the California Supreme Court; neither has Caltrans established that, to meet its legal goals, it clearly needs a different, outside perspective to insure independent and unbiased findings.

2. The contract does not meet the requirements of Government Code section 19130(b)(3) in that Caltrans has not established that the services contracted for are not available within civil service, cannot be performed satisfactorily by civil service employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available through the civil service system.

3. The contract does not meet the requirements of Government Code section 19130(b)(10) in that Caltrans has not established that the services contracted for are of such an urgent, temporary, or occasional nature that the delay incumbent in their implementation under civil service would frustrate their very purpose.

4. The contract does not meet any other requirement of Government Code section 19130(b).

(continued - Page 3)

IT IS RESOLVED AND ORDERED that:

1. The contract is hereby disapproved as of April 8, 1997.
2. The contract shall be terminated within thirty (30) working days of that date.

The foregoing resolution, memorializing the Board's action taken on April 8, 1997, was made and adopted by the State Personnel Board at its meeting on April 22, 1997 as reflected in the record of the meeting and Board minutes.