



Office of the Attorney General
Fair Labor Division, Bid Protest Unit
One Ashburton Place, 18th Floor
Boston, MA 02108-1518

January 29, 2020

Building Up People Not Prisons Coalition
c/o Families for Justice as Healing
100R Warren Street
Roxbury, MA 02119

Dear Bid Protest Unit,

This letter is a formal bid protest regarding [DSB List # 19-40](#), “Bay State Correctional Center – Women’s Facility.” The awarding agency is Division of Capital Asset Management and Maintenance (DCAMM), and the notice of designer selection was prepared on behalf of the Massachusetts Department of Correction (DOC) and the Executive Office of Public Safety and Security (EOPSS).

This protest is being filed against the Designer Selection Board, which failed to follow mandatory protocols for public transparency pursuant to Massachusetts law, G.L. c. 7C § 47(a).

As required by G.L. c. 7C § 47(a), “Each contract for design services for a project subject to the jurisdiction of the board **shall be publicly advertised by the board in a newspaper of general circulation in the area in which the project is located or to be located**, and in the central register established under section 20A of chapter 9, and in such places as the board requires by regulation, **at least 2 weeks before the deadline for filing applications . . .**” (emphasis added).¹

The statutory language (“shall be”) requires newspaper publication. The notice of designer selection for DSB List # 19-40 was released on December 4, 2019. The deadline for filing applications was January 8, 2020 at 2:00 PM. Therefore, the newspaper publication deadline was December 25, 2019 at 2:00 PM.

In an email dated January 27, 2020 (enclosed herein), Willard (Bill) Perkins, Executive Director of the Designer Selection Board, represented that the board had engaged “a very open and transparent process in accordance with State law, with all notices publicized in the Central Register, on Commbuys and on our website.” Mr. Perkins did not mention publication in a local newspaper. A subsequent search of published notices maintained through [Massachusetts Public Notices](#) over the past 60 days—the entire period since the notice was released—revealed no newspaper publication of DSB List # 19-40.

¹ This subsection does not require newspaper publication for “a project whose estimated cost of construction is not less than \$10,000 nor more than \$25,000,” which is not applicable here, as the fee for the study identified in DSB List # 19-40 is \$650,000 and the estimated cost of construction is \$50,000,000 ±.

The Designer Selection Board already met on January 22, 2020 to reduce the applicant pool to three finalists from six submissions. Their formal interviews are scheduled for February 5, 2020—next week.

Given this failure to comply with a mandatory provision of state law, the Designer Selection Board should be required to immediately stop the process of selecting a designer for DSB List # 19-40.

The failure to advertise the design contract is in keeping with the Commonwealth's attempt to complete this process in the dark, without engaging residents of the Commonwealth—in particular, those who are most affected. The failure to comply with binding obligations regarding transparency is not a mere technicality—a full, transparent process is crucial for a matter of such significant public concern. Spending tens of millions of public dollars on a new prison will continue the Commonwealth's shameful pattern of increasing spending on incarceration even as Massachusetts incarcerates fewer people.² As a group of incarcerated and formerly incarcerated women and girls, we know that all prisons are harmful and only harmful. While incarcerated, women experience separation from their children, sexual and physical violence, and trauma. The idea of a trauma-informed prison is a contradiction in terms and a misuse of resources.

We have already written to the Governor, the Secretary of EOPSS, and the DOC Commissioner to express our grave concerns that this notice of designer selection is expensive, unwarranted, and unethical. At the very least, it is premature: before engaging a designer to evaluate the viability of new prison construction, the Commonwealth must create a viable plan for decarceration via diversion, pretrial release, community-based alternatives, clemency, parole, and compassionate release. Resources that would otherwise be spent on incarceration should be invested in healing, housing, and treatment at cost-savings to the Commonwealth.

Given that the Designer Selection Board is scheduled to meet again next Wednesday, February 5, 2020, we urge the Bid Protest Unit to act immediately to halt this process.

Sincerely,

Andrea James, Founder
Mallory Hanora, Executive Director
Members of Families for Justice as Healing, and
The Building Up People Not Prisons Coalition

Enclosure

Cc: Executive Director Bill Perkins, Designer Selection Board
Commissioner Carol Gladstone, Division of Capital Asset Management and Maintenance
Commissioner Carol Mici, Department of Correction
Secretary Thomas Turco III, Executive Office of Public Safety and Security
Governor Charlie Baker

² Benjamin Swasey, *Over 8 Years, Mass. Spending On Incarceration Is Up 25 Percent Despite Inmate Numbers Dropping 21 Percent*, WBUR (May 21, 2018), <https://www.wbur.org/news/2018/05/21/new-massachusetts-prison-spending-report>.

From: **Perkins, Willard (DCP)** <willard.perkins@state.ma.us>
Date: Mon, Jan 27, 2020 at 9:59 AM
Subject: RE: DSB 19-40-Bay State Correctional
To: Mallory Hanora <mhanora@justiceashealing.org>, alan@mass-group.org <alan@mass-group.org>, Rebecca L. Sherer <rls5735@gmail.com>
CC: Ayana Aubourg <aubourg@justiceashealing.org>, Andrea James <ajames@thecouncil.us>

Mallory,

Our selections involve a very open and transparent process in accordance with State law, with all notices publicized in the Central Register, on Commbuys and on our website. During the 1/22 meeting, our board chair explained that we only do the selection of the designer and have nothing to do with hiring or contracts.

This is a two-step process: (1) last week we reduced the number to three finalists who have been invited back for formal interviews; and (2) during our February 5 meeting we plan to conduct the interviews in public, and then rank the finalists in order according to the Designer Selection Law. These will be passed to DCAMM and the DOC and they will be directed to negotiate with the highest ranked firm in an attempt to come to agreement on a contract.

I hope this helps you understand our involvement. DOC is better equipped to answer any additional questions about the specifics of this project.

Thank you,

Bill Perkins, PE

Executive Director



Designer Selection Board

One Ashburton Place, Room 1018A, 10th Floor Boston, MA 02108

www.mass.gov/dsb

DIRECT 857-204-1422 **CELL** 857-360-3658

From: Mallory Hanora <mhanora@justiceashealing.org>

Sent: Tuesday, January 21, 2020 3:17 PM

To: rlsherer@tighebond.com; alan@mass-group.org; Perkins, Willard (DCP) <willard.perkins@mass.gov>

Cc: Ayana Aubourg <aaubourg@justiceashealing.org>; Andrea James <ajames@thecouncil.us>

Subject: Re: DSB 19-40-Bay State Correctional

Good afternoon,

This message is regarding the recent RFD, the applications for which you will consider tomorrow: <https://www.mass.gov/files/documents/2019/11/26/DSB-19-40-Bay-State-Correctional-Center-Womens-Facility.pdf>

Constituents have written Governor Charlie Baker and Secretary of EOPSS formally requesting a pause on the process to select a firm to conduct the \$650,000 study to convert Bay State to a new women's prison. Instead, we urge the Governor and his Secretaries and Commissioners to create a viable plan for decarceration: diversion, pretrial release, community-based alternatives, clemency, parole, and compassionate release. Resources that would otherwise be spent on incarceration could be invested in healing, housing, and treatment at cost-savings to the Commonwealth.

We hope the Designer Selection Board will consider that incarcerated women, formerly incarcerated women, their families, and their communities were not given an opportunity to engage with this process. We have mobilized to oppose funding the study or any new prison construction.

We're also aware that the Boston Society of Architects [made a statement in 2018](#) condemning the design of buildings where humans are held in solitary confinement and people are tortured: *The use of any architect's specialized skills and privileged position to design spaces that in and of themselves torture individuals is an obvious breach of the mandate to "facilitate human dignity" and "uphold human rights."*

As a group of incarcerated and formerly incarcerated women and girls, we can assure you that all prisons are harmful and women experience sexual violence and trauma while incarcerated. There is no "good" or "therapeutic" prison design. We encourage you to take a moral stand and abstain from this process.

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Attached is the letter have issued the governor. Thank you for your consideration.

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Mallory Hanora

Co-Director

Families for Justice as Healing

617-992-7185 x 700

justiceashealing.org | <https://www.facebook.com/familiesforjusticeashealing/>

Ending the incarceration of women and girls