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Palin pipeline terms curbed bids, investigation finds

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ANCHORAGE, Alaska Gov. Sarah Palin's signature accomplishment a license agreement to build a 1,715-mile pipeline to bring natural gas from Alaska to the Lower 48 emerged from a flawed bidding process that narrowed the field to a company with ties to her administration, an Associated Press investigation shows.

Beginning at the Republican National Convention in August, the McCain-Palin ticket has touted the pipeline as an example of how it would help America achieve energy independence.

"We're building a nearly $40 billion natural gas pipeline, which is North America's largest and most expensive infrastructure project ever, to flow those sources of energy into hungry markets," Palin said during the Oct. 2 vice presidential debate.

Despite Palin's boast of a smart and fair bidding process, the AP found that her team crafted terms that favored only a few independent pipeline companies and ultimately benefited the winner, TransCanada Corp.

And contrary to the ballyhoo, there's no guarantee the pipeline will ever be built; at a minimum, any project is years away, as TransCanada must first overcome major financial and regulatory hurdles.

In interviews and a review of records, the AP found:

Instead of creating a process that would attract many potential builders, Palin slanted the terms away from an important group the global energy giants that own the rights to the gas.

Despite promises and legal guidance not to talk directly with potential bidders, Palin had meetings or phone calls with nearly every major candidate, including TransCanada.

The leader of Palin’s pipeline team had been a partner at a lobbying firm where she worked on behalf of a TransCanada subsidiary. Also, that woman’s former business partner at the lobbying firm was TransCanada’s lead private lobbyist on the pipeline deal, interacting with legislators in the weeks before the vote to grant TransCanada the contract. Plus, a former TransCanada executive served as an outside consultant to Palin’s pipeline team.

Under a different set of rules four years earlier, TransCanada had offered to build the pipeline without a state subsidy; under Palin, the company could receive a maximum $500 million.

“Governor Palin held firmly to her fundamental belief that Alaska could best serve Alaskans and the nation’s interests by pursuing a competitive approach to building a natural gas pipeline,” said McCain-Palin spokesman Taylor Griffin. “There was an open and transparent process that subjected the decision to extensive public scrutiny and due diligence.”

Only one viable bidder

There were never more than a few players that could execute such a complex undertaking at least a million tons of steel stretching across some of Earth’s most hostile and remote terrain.

TransCanada estimates it will cost $26 billion; Palin’s consultants estimate nearly $40 billion.

The pipeline would run from Alaska’s North Slope to Alberta in Canada; secondary supply lines would take the gas to various points in the United States and Canada. The pipeline would carry 4.5 billion cubic feet of natural gas daily, about 8 percent of the present U.S. market.

Building such a pipeline had been a dream for decades. The rising cost and demand for energy injected new urgency into the proposal.

So too did the depletion of Alaska’s long-reliable reserves of oil, which are trapped in the same Arctic Circle reservoirs as clean-burning natural gas. Not only does that oil provide jobs, it pays for an annual dividend check to nearly every Alaska resident. This year’s payment was $2,069, 25 percent higher than 2007 plus a $1,200 bonus rebate to help offset higher energy costs.

Palin was elected as governor two years ago in part because of her populist appeal. Promising “New Energy for Alaska,” she vowed to take on Exxon Mobil

Corp., ConocoPhillips and BP, the multinational energy companies that long dominated the state's biggest industry.

Oil interests were particularly unpopular at that moment: Federal agents had recently raided the offices of six lawmakers in a Justice Department investigation into whether an Alaska oil services company paid bribes in exchange for promoting a new taxing formula that would ultimately further the multinationals' pipeline plans.

Palin ousted fellow Republican Gov. Frank Murkowski, who pushed a pipeline deal he negotiated in secret with the "Big Three" energy companies. That deal went nowhere.

With Alaskans eager for progress and sour on Big Oil, Palin tackled the pipeline issue with gusto, meeting with representatives from all sides and assembling her own team of experts to draw up terms.

Palin invited bidders to submit applications and offered the multimillion-dollar subsidy. Members of Palin's team say that without the incentive, it might not have received any bids for the risky undertaking.

Ties that bind

Palin's team was led by Marty Rutherford, a widely respected energy specialist who entered the upper levels of state government nearly 20 years ago. Rutherford solidified her status when, in 2005, she joined an exodus of Department of Natural Resources staff who felt Murkowski was selling out to the oil giants.

What the Palin administration didn't tell legislators and neglected to mention in its announcement of Rutherford's appointment was that in 2003, Rutherford left public service and worked for 10 months at the Anchorage-based Jade North lobbying firm. There she did $40,200 worth of work for Foothills Pipe Lines Alaska, Inc., a subsidiary of TransCanada.

Foothills Pipe Lines Alaska Inc. paid Rutherford for expertise on topics including state legislation and funding related to gas commercialization, according to her 2003 lobbyist registration statement.

Palin has said she wasn't bothered by that past work because it had occurred several years before. But Rutherford wouldn't have passed her new boss' own standards: Under ethics reforms the governor pushed through, Rutherford would have had to wait a year to jump from government service to a lobbying firm.

Rutherford also has downplayed her work for Foothills.

“I did a couple of projects for them, small projects,” she told a state Senate committee examining the TransCanada bid earlier this year. While a partner, Rutherford said, she “realized that my heart was not in the private sector, it was in the public sector, and I sold out for the same amount of money I bought in for.”

At one point, Palin’s pipeline team debated Rutherford’s role, but concluded there was no problem.

“We were looking at it in terms of is this an actual conflict or is there the appearance of impropriety of Marty’s participation,” said Pat Galvin, the commissioner of the Revenue Department and another top team member. “It was determined that there was none, and so we moved forward.”

Patricia Bielawski, Rutherford’s former partner at Jade North, spent last summer in Juneau, the state capital, serving as TransCanada’s lead private lobbyist on the pipeline deal. While the Legislature debated and ultimately approved the TransCanada deal, Bielawski met with lawmakers and sat in on the public proceedings, several legislators said.

Bielawski told AP earlier this month that Rutherford’s employment at her firm was irrelevant. She said Rutherford never directly lobbied the Legislature for Foothills, and that Rutherford broke no rules based on 2003 state ethics guidelines.

“There’s no statutory or regulatory prohibition that extends to things that many years ago,” Bielawski said. “So there’s no issue.”

But others say it’s a legitimate question.

“I’m not saying someone’s getting paid off for a sweetheart contract, but it’s very hard to ignore that this is your former partner and your former client standing there before you,” said Republican Sen. Lyda Green, a Palin critic who in August was among the handful of lawmakers who voted against awarding TransCanada the license. “Every time it was mentioned to the governor or to the commission, it was like, ’How could you question such a wonderful person?”’

Tony Palmer, the TransCanada vice president who leads the company’s Alaska gas pipeline effort, rejects the suggestion that his company benefited.

“We have gained clearly no advantage from anything that Ms. Rutherford did for Foothills some five years ago on a very much unrelated topic,” he said.

Rutherford did not respond to interview requests made directly to her and through the governor’s office. But Griffin, the spokesman for the McCain-Palin campaign, said Rutherford “had no decision-making role or authority,” and contended that such matters were handled by others on the Palin pipeline team.

TransCanada also had a connection to the team hired by the Palin administration to analyze the bid. Patrick Anderson, a former TransCanada executive, served as an outside consultant and ultimately helped the state conclude that TransCanada's technical solution for shipping gas through freezing temperatures would work.

Narrow set of rules

In January 2007, Palin spoke the first of at least two times to Vice President Dick Cheney, the Bush administration's point person on energy issues, according to calendars obtained by the AP through a public records request. Cheney's staff pressed the Palin administration to draw in the energy companies, said current and former state officials involved in those discussions.

As the governor's approach unfolded in the spring of 2007, there were signs it was skewed in a different direction.

Palin said she saw problems if the firms that own the gas also owned the pipeline. They could manipulate the market or charge prohibitive fees to smaller exploration firms, discouraging competition.

Several important requirements in the legislation were unpalatable to the big oil companies. In the talks under Murkowski, the firms asked that the rates for the gas production tax and royalties be fixed for 45 years; Palin refused to consider setting rates for that long.

Under the Palin process, the pipeline firms had an advantage because they simply pass along taxes paid by oil and gas producers.

Oil company officials warned lawmakers they wouldn't participate under those terms. Still, in a near unanimous vote, the Legislature passed the Alaska Gasline Inducement Act in May 2007, generally as written by Palin's pipeline team.

Once the state issued its request for proposals on July 2, 2007, the level of communication between the government and potential bidders was supposed to decrease drastically, so that no one would be accused of gaining unfair advantage. State lawyers advised public officials to keep their distance, and bidders were told to submit questions on a Web site where answers could be seen by all.

Several of the state's gas line team members interviewed by AP said they had no contact with possible bidders. But Palin had conversations with executives at most of the major potential bidders during that period, according to her calendars.

While the calendars don't detail what was discussed, the documents indicate that the pipeline was the subject of the discussions, or that the conversations occurred immediately after a briefing with Palin's pipeline team.

When she was in Michigan for a National Governors Association summit in late July 2007, Palin and her team met executives from Williams Co., a pipeline builder that ended up not bidding.

"The purpose of the meeting was to more fully understand the details of the project, which we were still evaluating at the time," company spokeswoman Julie Gentz said in a statement.

TransCanada's Palmer described communication with state officials as nonexistent.

According to the governor's official schedule, however, Palin called TransCanada President and CEO Hal Kvisle on Aug. 8, 2007. Asked about that call, Palmer said it was to clarify the bidding process.

Griffin said that in keeping with legal guidance, Palin never spoke in any of the meetings about the competitive bidding process.

By the Nov. 30 submission deadline, there were five applications. But the state disqualified four for failing to satisfy the bill's requirements.

That left TransCanada.

The Canadian giant had been pursuing an Alaska pipeline since at least 2004, when the company negotiated a deal with Rutherford that the state ended up shelving. While the details remain confidential, six people familiar with the terms told the AP that TransCanada was willing to do the work then without the large state subsidy.

In testimony this July before the state Senate, Rutherford herself confirmed such a willingness, but described the 2004 deal as presenting a different set of trade-offs. A state lawyer warned her not to say more, lest she violate a confidentiality agreement.

Others who reviewed the deal think much of the $500 million will be wasted money.

"Most definitely TransCanada got a sweetheart deal this time," said Republican Sen. Bert Stedman, who voted against the TransCanada license. "Where else could you get a $500 million reimbursement when you don't even have the financing to build the pipeline?"

No guarantee gas pipeline will be built

ANCHORAGE Contrary to Gov. Sarah Palin’s campaign promises to “build a pipeline quickly,” the massive project to send natural gas south is still no sure thing.

TransCanada Corp. has been awarded a state license, but still needs approval from the Federal Energy Regulatory Commission, which is years away. Canadian regulators must sign off on their portion.

First Nation tribes in Canada are objecting to the proposed route. And even if it sails through financial and regulatory hurdles, TransCanada still has no obligation to build the pipeline.

If the company doesn’t complete the project, it could still receive up to $500 million in state subsidies, with startup costs split evenly until the company tries to secure contracts to ship gas through the supply channel. Between the time TransCanada locks in shipping commitments and files for a federal permit, the state will pick up 90 percent of the tab even before ground is broken.

If TransCanada can’t woo the energy companies to use its pipeline, banks won’t finance the project. And unless the state or TransCanada decide to break the contract, the company must move forward with the federal permitting process for a project that would be all but doomed. The state treasury would cover most of those costs.

According to a new report by the Congressional Research Service, TransCanada and state officials may be underestimating how long the project will take; the target finish date is 2018.

Should TransCanada win federal permission to start digging, U.S. taxpayers could be on the hook, big time. Included in the company’s bid is a proposal for the federal government to absorb up to $75 billion in liability over a 25-year period if the major natural gas suppliers refuse to ship their gas through the line, the CRS report said. Such a measure would require congressional approval.

Meanwhile, ConocoPhillips and BP have launched a competing project completely outside the state’s process Denali-The Alaska Gas Pipeline that promises to get the job done more quickly.

Clearly, two pipelines won’t be built, and already state officials acknowledge that the winners in Palin’s process may end up being absorbed into a consortium with the multinational energy giants. After all, with no guaranteed gas supply, there’s little need for a pipeline.

“Frankly, this continues to be one big negotiation,” said Revenue Department Commissioner Pat Galvin.

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