



STATE OF ILLINOIS PROCUREMENT POLICY BOARD

Terrence Healy, Chairman

Members: Michael Bass, Ed Bedore, Ricardo Morales, Carmen Triche-Colvin

Minutes – January 15, 2008 Meeting

Room 115 at State Capitol Building in Springfield

Connected via video to

Room 14-612 at James R. Thompson Center in Chicago

Present in Springfield: Terry Healy
Ed Bedore
Rick Morales
Carmen Triche-Colvin

Absent: Mike Bass

The Board started the meeting by confirming attendance at 12:05 p.m.

Member Morales had a correction for the minutes regarding clarification on PPB legal counsel's statement during the meeting. Approval of the minutes of the November 28, 2007 meeting were moved for approval as amended by Member Triche-Colvin and seconded by Member Bedore. The minutes were unanimously approved.

Next on the agenda was CMS lease #5311 – In attendance was David Vaught, Deputy Director of Property Management and Chief Operations Officer Marcia Armstrong. Acting Director Maureen O'Donnell made some introductions due to staffing changes. David Vaught will be taking over as Deputy Director of Property Management, Rick Hughes is Acting Deputy Director of Procurement and Gwyn Gurgens is acting as SPO. The group gave brief comments and was welcomed by the Board.

Ms. Marcia Armstrong stated that lease #5311 at Hill Meadows in Springfield is an ISP lease for laboratory space. This lease was negotiated at a ten year term with a 36 month termination clause. CMS considered negotiations to re-negotiate a five and five term and has decided to leave it as is for a few reasons. This is specialized space and they felt comfortable because the termination option is a 90 day notice after the third year, which gives them the flexibility after three years to get out of the lease. The rate would have a two percent increase per year over the ten year term as opposed to other locations with a higher rate. Ms. Armstrong stated that CMS is still working on this function with ISP considering lease space versus State owned space. There are 37 employees at this facility. It is a dual function lab used for technologies for DNA analysis and toxicology lab work. Ms. Armstrong asked if she could answer any questions.

Member Bedore commented that the crime lab in Chicago made an effort to locate it in the medical district. He also commented that the same thing could be available in Springfield. Member Bedore also wanted to know when the Board would get more information on the AIG Building and how the space will be utilized after AIG moves out and how that relates to lab space. Mr. Vaught replied that there are many opportunities at the AIG Building and there have

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been regular meetings with ISP and others making sure that the space is being utilized to its fullest. The space plans are being worked on now to ensure that the building is fully utilized. There are a number of ISP leases that will be moving to maximize that as much as possible. Member Morales wanted to know if the operations of these labs were 9 to 5. Ms. Armstrong replied that this facility is not consolidated to CMS because it is specialized space. The labs are still under the control of the ISP while CMS facilitates the lease and she is unaware of scheduling. Member Morales stated that he wanted to know if all the employees were there at once or different times. Ms. Armstrong replied that she could find that information and let the Board know. Chairman Healy asked if there was a motion for approval. Member Morales made a motion to accept the lease as presented. Chairman Healy stated there was no second at this point and wanted to put lease #5311 on hold. Chairman Healy told Ms. O'Donnell that they would consider a motion to table this lease until the next meeting when someone from ISP can attend. A motion was made by Member Morales and was seconded by Member Bedore. The motion was unanimously approved.

Next on the agenda was lease #REPS07202006 U of I – 1901 S. First, Champaign, IL and lease #28977 1100 Warrenville Road, Naperville, IL – In attendance was Bob Baker, Chief Executive Officer, IPHEC, Dennis McConaha from U of I Real Estate Planning, Wes Curtis U of I Legal Counsel and Marcia Rotunda Legal Counsel for Higher Education. Mr. Baker stated that both were posted after the contracts were executed, which is in violation of the requirement of the Code recognized that they should be posted prior to contract execution. The Naperville lease is a ten year term with two five year renewals, which raised the issue of being a 20 year lease as opposed to a ten year lease. Mr. Baker stated that the posting of these two transactions was an effort to catch-up and clear away transactions that preceded the changes made a year ago, which hopefully reduced the number of late posting problems for Higher Education. There is no excuse for these two transactions being posted so late other than the fact that they were executed at a time when procedures were not as effective as they are now. Changes have been instituted to help correct it for the future. Mr. Baker also stated that people make mistakes and a lot of attention has been given to this situation and the university knows it is important because a transaction posted late is not a legal transaction and does not meet the requirements of the law. Mr. Baker asked the Board if they had any questions. Chairman Healy wanted to clarify that reference to a reduction in the late posting problem means that it is still going on. Mr. Baker replied that is correct. Chairman Healy stated that the reduction needs to be down to zero as far as the Board is concerned. Mr. Baker replied that it was their goal. Chairman Healy wanted to know since the procedures put into place last January have not eliminated late postings, what further actions are being taken to bring it down to zero.

Mr. Baker replied that he hosts meetings three times a year with the Directors of Purchases from the 13 campuses and he will again make sure that it is an agenda item on the next meeting in March. Mr. Morales stated that he understands that “things happen” and Higher Ed put actions in place to prevent these types of things from happening. This does not mean you can cover yourself by saying “things happen”. Member Morales stated that when “things happen” he would like to know the consequences and who is being held accountable for it, which has not been brought up. Ms. Rotunda wanted to make a point that posting transactions are performed manually and there is always a chance for mistakes. There are systems in place now to help prevent these things from happening. Member Triche-Colvin wanted to confirm that they referenced the training process and wanted to know if they address the issue of old leases, old items that need to be posted at this point. Ms. Rotunda replied yes and that the directors from each campus were there. Member Bedore wanted to know when Mr. Baker has his meeting if Chicago State is included. Mr. Baker replied that Chicago State is included in their meetings.

The Director of Purchases at Chicago State has a vision problem and does not attend a lot of their meetings. Member Bedore asked if he should be coming because of this issue. Mr. Baker replied yes he should. Member Bedore wanted to know what is being done since they have not been attending the meetings and have other procurement problems. Ms. Rotunda stated that a University of Chicago transaction had someone breaking the law from outside the process that occurred with malicious intent. Mr. Baker stated that the Director of Chicago State gets a copy of the minutes from each meeting. Member Triche-Colvin stated that if they were not interested in attending the meeting what are the chances they are going to read the minutes. Chairman Healy stated that if they are having meetings like this one, it needs to be better enforced the importance on being there or having someone attend in their place. Mr. Baker stated that he will tell the Director of Chicago State that he or a representative will have to attend the meetings. Chairman Healy asked what if he does not come, what is the next step. Mr. Baker replied that he could elevate it to that person's supervisor and talk to him about it. No further questions were asked.

Next was lease #28977 U of I – 1100 Warrenville Road, Naperville, IL – Mr. Curtis stated that the Naperville lease is written as a ten year lease with a five year termination as required by the statute and has two five year renewals options. The Board was considering if this is a ten year lease or a twenty year lease. Mr. Curtis stated that he has interpreted this by referring to the Code and its requirements as being a ten year lease and believes it is in the best interest of the State. Chairman Healy stated that he believes that the proposed renewal authorization of the Code is a separate paragraph and it is not available under the ten year maximum lease. Chairman Healy also stated that it was his understanding that when the General Assembly enacted this that the interpretation was not to exceed a ten year term which also included any renewals. When the landlords see this type of lease they see it as a twenty year lease. Mr. Curtis replied that if you get different lawyers and read this there would be different interpretations and the way he interpreted this lease was a ten year lease and not a twenty year lease. The law is ambiguous. Chairman Healy replied that he understands, but speaking for the Board and the General Assembly, they see this as a twenty year lease. Member Bedore stated that he agreed with Chairman Healy and the intent of the legislation is ten years. Chairman Healy asked if Mr. Turner, PPB counsel, could give his legal opinion on this. Mr. Turner stated that legal counsel's opinion is interpretation that ten years is the maximum and includes renewals. He stated that one of the important things that had not already been stated is the Procurement Code's promotion of competitive selection. When you have proposed renewal terms, it cuts out the competitive selection process which is important to the Procurement Code. Director Brown stated that staff could not identify a separation from the out years since the mandatory termination option after five years was intended to apply to all years past the initial five. That connection registered the additional years as continuous in establishing the length of the term beyond ten years. Member Triche-Colvin stated that the law was written in response to past abuses in establishing duration. She recognized the law may be clarified by the General Assembly. Member Morales stated that in response to arguments that banks don't like five and five terms, it is his experience that banks do take those terms and will loan the money to the lessors. Chairman Healy re-stated that they are following what the General Assembly intended by interpreting a ten year maximum for the lease. Anything in that lease that states you can go past the ten years, as far as the Board's interpretation of that law, is invalid. Member Bedore wanted to make a motion to invalidate lease #28977 due to its late posting and because of the option to have two additional five year renewals beyond the intent of the legislation. Member Triche-Colvin seconded the motion. The motion was unanimously approved. No further questions were asked.

Next on the agenda were the Board's proposed Open Meetings Rules – Director Brown had a brief summary on the Open Meetings Rules. As authorized by the Procurement Policy Board at the last meeting the Rules were submitted to JCAR, have gone through draft analysis and have been submitted to the Secretary of State for adoption. Because of the type of rules, they are qualified for an expedited process. Regarding one change that the Board made at the last meeting; a discretionary move as to the assignment of regularly scheduled meetings beginning at the fiscal year or calendar year had been elected. JCAR told us to narrow that down to one and it was proposed to be narrowed down to calendar year. A motion to change the regularly scheduled meeting establishment to calendar year was made by Member Triche-Colvin and seconded by Member Bedore. The motion was unanimously approved.

As no other items of business were to be considered, a motion was made to go to executive session by Member Morales to discuss matter of personnel related to specific employees and seconded by Member Triche-Colvin. The motion was unanimously approved. The executive session for personnel began at 1:30 p.m.

Executive Session concluded at 1:55 p.m.

No other business was heard and the Board adjourned at 2:00 p.m. The motion was made by Member Morales and seconded by Member Triche-Colvin. The motion was unanimously passed.