Minutes – August 13, 2009 Meeting

Present in Chicago: David Vaught
Diego Ferrer
Rick Morales

Present in Springfield: Mike Bass
Ed Bedore

The Board started the meeting by confirming attendance at 11:35 a.m.

A motion to approve the minutes for July 9th was made by Member Morales and seconded by Member Bass. The motion was unanimously approved.

First on the agenda was CMS Facilities. In attendance was Nick Kanellopoulos, the Acting Director of Property Management. Mr. Kanellopoulos stated that holdovers are down to 78 to act on by June 30, 2010. Mr. Kanellopoulos wanted to give the Board a more accurate count where they were in holdovers by giving a report of the leases needing action and leases that will be terminating before that date that will need to be acted on. This will also include leases that are posted to the Procurement Bulletin, but will require the Board approval. When you add them all up the count is at 128 holdovers. Another topic Mr. Kanellopoulos wanted to mention is the security issue. CMS will now define in detail about what security is provided at each facility and the cost.

Next on the agenda was the 364-day lease white paper. Director Brown stated that it was added to the agenda for discussion because the 364-day white papers do not contain all the data that the other submissions have. Mr. Kanellopoulos replied that the 364-day agreements are in response to leases that the Comptroller will not pay rent on because they are in holdover beyond contract limits for more than six months now. CMS has been working with Illinois Office of the Comptroller (IOC) and came up with a short term agreement that is under a year and will be put into place for the lease that will be affected. The landlord will continued being paid under this agreement. These agreements will not change any of the terms to the original lease. Member Bedore stated he does not understand this process. He also referenced lease 5613 on Second Street in which the lease expired in March. He stated the Comptroller stopped payment in February and asked isn't there any type of program that told you last year that certain leases will be expiring. Member Bedore stated that it seems that CMS does not do anything until the Comptroller stops payment and then they move into action. Mr. Kanellopoulos replied that when the Comptroller made the decision on the payment, it was a new decision and had not been done previously. When that decision was made CMS had to work with the Comptroller and come up with an agreement that would be acceptable in order to continue payments. Chairman Vaught asked if it was a holdover lease. Mr. Kanellopoulos replied affirmatively. Chairman Vaught stated that CMS has known for some time that CMS has holdover leases and have been working

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with the legislature on holdover leases to a deadline to solve this problem. Mr. Kanellopoulos replied affirmatively for both. Chairman Vaught stated that through those negotiations and new statutes that one of them is already signed. Mr. Kanellopoulos replied affirmatively. Chairman Vaught stated that June 30, 2010 was established as an end date and seems that the Comptroller is acting outside the legislative intent and trying to pursue an earlier deadline. Mr. Kanellopoulos replied that as an attorney that he does not see the basis for the Comptroller to create that cutoff. However, in the end they make the payments and make their rules and CMS will abide by it. Chairman Vaught stated that he understands, but the rules that were made are inconsistent with the recommendations by this Board and the legislation that has passed. Director Matt Brown stated that those are two separate issues. The legislation that has been passed deals with the duration of contracts not to exceed 10 years not the holdover period and holdover expiration going away on June 30. So the Comptroller's application here is that they have a contract by nature of a five year firm commitment and the addition of five holdover years that has now run to the boundary of 10 years in total. Chairman Vaught stated that all the actions taken by the Comptroller are the result of the change of the law. The Comptroller applied this interpretation to existing statue. Director Brown replied that they are only reinforced by the change in law. Member Bedore stated that his original question has not been answered. Mr. Kanellopoulos replied that CMS did not have the approved form from the IOC to execute to solve this issue until now. Mr. Kanellopoulos replied that it wasn't the white paper that was the issue, but the agreement on the contract form that would be used and that process went much slower than expected.

Member Bass asked if this lease terminated on March 31, 2009 and stated that he really wanted to know at what point when working with the IOC did CMS have occupancy of a space where there was no lease. Mr. Kanellopoulos replied that technically the lease was in holdover period. Member Bass sought explanation that took the contract back from the point in time that CMS came to an agreement on form and then initiated the start date of the contract back to the date the holdover started. The negotiation with the IOC was a sort of instrument that they would accept to recognize payment when there was no contract at that point to do payment under their interpretation. Chairman Vaught asked too about the court of claims impact to which Mr. Kanellopoulos responded it should not be necessary with the agreement. Mr. Kanellopoulos replied that there was an agreement made by both sides and that this contract dates back to the current lease that was in place and that is why no terms were changed. Member Bass asked if the original contract was terminated.

Next on the agenda was Facility Field Inspector. Director Matt Brown stated that this topic is a follow-up from previous conversations raised by Board members about how due diligence work occurs. Mr. Kanellopoulos stated that he wasn't clear on what the topic was and said that CMS could give a presentation to the Board next month that show business processes that have been put into place in the past couple of months. Member Bedore stated that he would like to hear that presentation and would also like to see the field inspectors name and signature on the white papers. Chairman Vaught asked for an update on administrative rules for the September agenda. Member Bedore also asked before moving on to the next agenda items for some discussion about energy consumption and sustainability practices.

Next on the agenda was IPHEC Paint – SIUE. Director Matt Brown stated that the Board took this review because in subsequent years the paint contract established for all State universities had derived a very narrow specification and dealt with a brand specific paint product. As this contract was reviewed for a second time it was suggested to the agency that the brand specific designation might be too restrictive and were concerned that the general policy used within

Higher Education to permit brand specific procurements to proceed was not within the expressed requirements of the law. The Board's interpretation was that for each brand specific designation there needed to be a written determination for that procurement. As a result of the Board's concerns the IPHEC group determined that a rebid was necessary and the results of the rebid were competitive. Rosey Murton, the Assistant Director of CPO Support for Higher Education, replied to Director Brown that the bid was under evaluation and there were four vendors on the second round and expect the results of the rebid within the next couple of weeks. Member Bass stated that there were two things that he read in the analysis. One on the brand name or equal specifications; the other was origination of documents. Does that mean at the time of the request the file was not complete, what is the implication there. Director Brown replied that when staff does their review of the procurement they establish the required level of documentation and approvals had been met. The original response to those requests was a generalized statement about the permissive use of brand specific or equal documentation, which was not adequate. It was requested that an expressed brand specific authorization is required. That document was requested and it was produced, however, it was not produced at the onset of this procurement initiative. Member Bass asked was that a question of not having a specific document or having not produced it. Director Brown replied that the distinction was that HE was operating under a blanket policy that authorized the brand specific method. The PPB's interpretation was that it was not sufficient and that each procurement, in advance of its solicitation, should outline why the brand specific product is required and what its necessity was. As a result HE produced the letter, but was not done in advance of the determination. Ms. Murton stated that since that time HE has taken steps to prevent this from happening again. An e-mail of directions was sent to all directors, which explain all the procedures and going over the HE rule that specifies what needs to be more specific and needs to be in the procurement file.

Next on the agenda was the official review of DPH lease #5613 at 828 South 2nd Street, Springfield. Mr. Kanellopoulos introduced Gary Robinson, CFO of Public Health. This is a short term agreement for 8,770 sq. ft. This facility houses 11 total headcount and is a training center for DPH. Mr. Robinson stated that he knows that Member Bedore and Director Brown visited this facility and was not fully occupied that day. Mr. Robinson stated that the training facility is a critical part of the agency. The facility has a 10 ft. dish on top that links with the Center for Disease control programming, custom fitted video conferencing, built in mics with a 100 sq. ft. viewing screen and that particular site is their business continuity site, that has a redundant T-1 line built in, wired for generator back-up, 25 phones lines sitting there, 15 LAN lines all in the case of an emergency situation. Mr. Robinson stated that he is not here to say the resources there cannot be replicated somewhere else or that it is the most sophisticated room in the world, but presently why the need for a continuation of this lease in the short term for this ready-made training room and that it still houses a few employees.

Member Bedore and Director Brown walked through the facility and Member Bedore wanted to detail the other Board Members through the building. He stated that when entering the facility there was a key pad, but it is not being used because there is a guard there. The first area is the Plumbing Inspection area. There were a couple of ladies there doing their work and a few empty cubicles and then you go into another office, which is the file room. Then you head into another large office and it is storage. Then in another office it was told that the person is out in the field a lot and then the other office is a break room for four people. On the second floor is a well equipped room with a lot of phone lines, great training facility and a large open area. The employees asked if we were from CMS, because a year ago CMS told them that they were going to move and consolidate and then CMS never came back. Then when talking with the employees on the upper levels they too stated that about a year and a half ago DPH was going to consolidate and move and that never happened. Chairman Vaught wanted Mr. Kanellopoulos to reply on this move. Mr. Kanellopoulos stated that he was not in his position a year ago and doesn't have all the details. Member Bedore stated that the most disturbing part of the facility is when going to see the restrooms. There is a big steel door that goes into this fireproof staircase. It takes two people to open and it leads to a narrow walkway that leads to another steel door for the men's restroom. Member Bedore believes that this building does not comply with ADA regulations. Member Bedore strongly recommends to the Board that this lease be terminated by December 31, 2009. Chairman Vaught wanted Mr. Kanellopoulos to respond to the ADA compliance. Mr. Kanellopoulos replied that he understanding is that the building is ADA compliant. He will confirm that and check with facilities to confirm their compliance. Chairman Vaught asked if this facility is shared with other agencies. Mr. Robinson replied that yes it is, but does not have a breakdown of who used the facility within the last year. He did state that the training room was booked 163 days out of 248 and have had about 4,000 people come though the facility in the last 15 months. No further questions were asked.

Next on the agenda was the official review of DCFS lease #6276 at 15115 South Dixie Highway, Harvey. In attendance for DCFS was Chris Towers. Mr. Kanellopoulos stated that this is a lease that CMS recently put out to bid. This lease is 35,000 sq. ft. with a first year rent rate at $15.00. There are currently 135 employees at the facility, which comes to 250 sq. ft. per employee. This is a 14,200 sq. ft. reduction at the current facility. When it was bid out it was bid inside the entire DCFS service area. Proposals only came in from one bidder. Over the current total cost of the facility CMS achieved a 41% reduction. Director Matt Brown stated that the policy concern is over the lack of standard lease practices and how the State maintains lease hold within the facilities that it bids as well as making determinations through an alternate method, which would be directly negotiating with the lessors of facilities CMS currently occupies. This lease has been on the Board's agenda several times. It was recommended by the Board that CMS revise its administrative rules so that occupancy can occur at the highest and best use. As a matter of policy CMS should establish standards and requirements for its agency clients to determine what facilities are no longer being utilized. CMS should also set up standard terms and conditions to identify how rate escalators and special requirements for effective administration of State leases are utilized. The Board has been arguing for more routine and standard methods of securing lease holds in facilities and this specific lease marked that concern.

Member Bedore stated that looking at these numbers it is a great savings and this Board can take 100% credit for the reduction. But this lease, even though it has had a 41% reduction is still out of line. There is $19.69 sq. ft., the present lease, which included $7.76 sq. ft. for build out. So the base rate was $11.92. So now it is going up to $15.00 per sq. ft. That is a 26% increase. Also, in the third – fifth years it goes up another 10%. This landlord has no additional expense and yet the State is going to be giving him a 26% increase and years 3-5 he will get a 10% increase for what. Member Bedore stated that CMS did this advertising and went 7 miles south of Harvey and cut it off on the North end. Member Bedore states that he is baffled by this on why CMS didn't accept a bid that was only 4 miles north in Blue Island. Chairman Vaught wanted to hear more about the boundaries. Mr. Towers replied that CMS wanted to keep the boundaries in the Harvey area. There was another facility in the Tinley Park area but it was closed and now the only office in the south suburbs is the Harvey office. That is why the boundaries were expanded to the south. Mr. Kanellopoulos replied that when this lease was originally bid the northern boundary was 147th Street. When the new space request came in from DCFS, CMS expanded it to 135th Street and the expansion was done in each direction and covered the entire service area.

Mr. Kanellopoulos stated that in the original lease, there was no breakdown of amortized cost for improvements vs. base rent and stated that there is no basis of that build out of $7.76 being accurate. Member Bedore stated that this number came from CMS and everyone else in his position before him. Mr. Kanellopoulos replied that the number is a guess and did not have information on to total cost of improvements and what was built into that. That is why things are broken out now to make them more transparent. Chairman Vaught wanted to clarify on the boundaries and how far west it goes. Mr. Kanellopoulos replied Harlem Avenue. Chairman Vaught asked how many square mile it covers. Mr. Kanellopoulos replied it is about 141 sq. miles. Member Bedore stated that he did not have anything else to say on this. It was asked if local advertising was done and if the Board of Realtors was notified about the RFI. Mr. Kanellopoulos responded that they just used the paper with the largest circulation. Questioned about the rules Mr. Kanellopoulos stated that they are in process with JCAR. Chairman Vaught requested that discussion be held to the next meeting. The other Board Members concurred.

Next on the agenda was DOC lease 1505 at 805 Freeman Street, Carbondale. Member Bass made a motion to approve this lease and was seconded by Member Bedore. The motion was unanimously approved.

Next on the agenda was DHS lease 2776 at 5000-5020 Industrial Drive, Springfield. Mr. Kanellopoulos stated CMS took the Board recommendations and re-posted and submitted as one lease covering the entire operation at 5000-5020 Industrial Drive. Mr. Kanellopoulos stated that if you look at the total cost of the three current leases opposed to the proposed lease there is a $118,293 reduction, which is a 5% reduction in total cost. Since the last meeting DHS has terminated two warehouse leases in Springfield and the total savings is about $118,000. Mr. Kanellopoulos asked for the Board's approval. Member Bedore questioned the break rooms in each building. Ms. Drinda O'Connor with DHS stated that CMS is terminating two DHS warehouse facilities and 20 additional employees will be moving into those areas. Member Bedore requested updated pictures of those rooms at a future board meeting. Ms. O'Connor replied that they will be moving into the facility on Sept 20th and will have updated pictures for the October Board meeting. A motion was made to accept this lease by Member Morales and was seconded by Member Ferrer. The motion was unanimously approved.

Next on the agenda was DES lease 3879 at W. 119th Street, Chicago. This was a 15,000 sq. ft. facility and was reduced to 13,300 sq. ft. with a headcount of 39 employees, which is 333 sq. ft. per employee. This is a five year lease with a base rent starting at $11.38 for the first year. Mr. Kanellopoulos believes this is a good lease and asked the Board for their approval. A motion was made to accept this lease by Member Bedore and was seconded by Member Morales. The motion was unanimously approved.

Next on the agenda was DES lease 4228 at 5608 W. 75th Place, Burbank. This is a 10,400 sq. ft facility. There are a total of 30 employees at this facility, which comes to 347 sq. ft. per employee. There is a large waiting area so people do not wait outside the door. There is a large conference area/training area. The rent rate is at $15.43 for the first two years. Member Bedore and Member Ferrer recused themselves from this lease. A motion was made to approve this lease by Member Morales and was seconded by Member Bass. The motion was approved.

Next on the agenda was BHE lease 5614 at 431 East Adams, Springfield. This is a 13,000 sq. ft lease with 34 total headcount, which comes to 382 sq. ft. per employee. The base rent is fixed rate of $14.62 sq. ft. in the first 5 year and a fixed rate at $15.21 in the renewal five years. The Board of Higher Ed's Executive Deputy Director, Mike Baumgartner stated that this is their only facility in the State apart from a very small room in the Thompson Center that is used on occasion. BHE provides many functions to private colleges and universities throughout the State of Illinois. The location has been ideal for the agency and would be happy to answer any questions the Board might have. Member Bedore asked if Mr. Baumgartner felt the $14.62 was a fair rate for Springfield since most of the leases the Board been approving are around the $12 to $13 range. Mr. Kanellopoulos believes that this is a good rate since everything is included in the rate and there are no indirect costs to the State. Member Bedore made a motion to approve this lease and was seconded by Member Bass. The motion was unanimously approved.

Member Bedore had a few questions he wanted answered that are not on the agenda. Member Bedore has a question on the lease in Marion, IL. The sq. ft. is 7,265, which is a reduction of 735 sq. ft. Today CMS is paying $67,000 for 8,000 sq. ft. and under the new lease of 7,265 CMS is paying $76,000. There is another case where the sq. ft. is reduced, but the rate is increase of 25% in the base rate. How can that be justified? Mr. Kanellopoulos replied that he did not have that information with him, but if the Board wanted to discuss it next month CMS will hold on any action and discuss it next month. Member Bedore said that lease 6292 is a lease on West 18th in Chicago and wants to know how CMS is paying $25.50 sq. ft. even if you take all the extras out it is still $19.00 sq. ft. Mr. Kanellopoulos replied that this is a special situation with DES. They are required under federal statute to have one comprehensive one stop shop in their service area. No further questions were asked.

Next on the agenda was Legislation. Director Brown stated that SB51 has been the Board's focus and at this point we are still uncertain of the potential amendatory veto that might be made before the Governor's deadline next week. Once that deadline incurs there will be a better understanding of what might be in the amendatory veto and how it will affect operations for the Board and the CPO agencies.

The next Board meeting is set for Sept 3rd at 11:30 a.m. in Chicago.

With no other business to discuss Member Bedore made a motion to adjourn and start the executive session on personnel at 2:15 p.m. and was seconded by Member Bass. The motion was unanimously approved.

Executive session adjourned at 2:45 p.m.

The meeting was adjourned at 2:45 p.m. by Member Morales and seconded by Member Bass.