

Chairman: David Vaught

Members: Michael Bass, Ed Bedore, Diego Ferrer, Ricardo Morales

Minutes – February 9, 2010 Meeting

Present in Springfield: David Vaught
Mike Bass

Present in Chicago: Rick Morales
Diego Ferrer

Present via Telephone: Ed Bedore

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

A motion was made to accept Member Bedore participating via teleconference by Member Morales and was seconded by Member Bass. The motion was unanimously approved.

Member Bass made a motion to approve the minutes of January 14, 2010. The motion was seconded by Member Morales. The motion was unanimously approved.

Next on the agenda was Implementation of Senate Bill 51(SB51) Update. In attendance for CMS were Legal Council Lynn Carter and Director of Operations Doug Kucia. Ms. Carter stated that Mr. Kucia is serving as Director for the SB 51 teams. Ms. Carter stated that there are 10 action teams made up of the four CPO agencies. Mr. Kucia stated that the SB51 implementation team consists of 65 people from CDB, IDOT, THA, CMS, AGR, REV, DHS, CEO and Higher Ed. Each sub-committee has a team leader that is responsible for setting up a regular meeting schedule and documents the results of each meeting. Each sub-committee was tasked to assess the impact of SB51 on its work or process load, determine the major issues or concerns regarding SB51 implementation, determining what the possible work product is and to identify any system related issues that need to be addressed, develop the work product to meet an April 1st deadline and fine-tune the functional, technical and uniformity for the July 1 implementation. Member Morales asked what the April deadline was for. Mr. Kucia replied that it was just an internal deadline to make sure that everything is in place and without any technological issues-to be better prepared. Chairman Vaught asked what CMS is doing about communicating with the Executive Ethics Commission about the technological issues. Ms. Carter replied that she has had several meetings with Chad Fornoff with the Executive Ethics Commission. CMS has assisted Mr. Fornoff by drafting job descriptions for the CPO and SPO positions. The Director of personnel has also had meetings with Mr. Fornoff to help identify the things that he needs to do. CMS has assisted by posting the CPO jobs on the websites. Mr. Fornoff is targeting to have these individuals on board by July 1, 2010. CMS wants to make sure that the PPB is also informed and requests to have time to give the Board an update at the Board's next meeting. Ms. Carter stated that there is a challenge related to the implementation date-the current bill stated that it applied to all contracts executed on or after the implementation date. A recent survey was done across the CPO agencies. When looking at July 1, 2009, there were about 600 pending procurements on

that date. If CMS has to do a hard stop and restart all of those procurements that were not completed by June 30 it will cause another disruption in the system. CMS is trying to put through as many as they can prior to June 30, 2010, but there will be at least several hundred that are pending as of June 30, 2010. This is one of the major issues CMS is facing going forward.

Member Bass wanted Ms. Carter to explain the language of “hard stop” that she stated earlier. Ms. Carter replied that all the requirements of the bill apply to any contract executed on or after July 1, 2010, so if a contract was signed on July 2 that was not done in accordance with all of the requirements of the new bill it is in violation of the Act. CMS has previously proposed language that would apply to all procurements that are initiated on or after July 1, 2010, but was unsuccessful in getting that change. Member Bass asked if no CPOs are hired by July 1, 2010 does it mean that no procurement activity can proceed? Ms. Carter replied that the bill states that all procurement authority rests with the CPO. It also affirmatively extinguishes the authority of the current CPO and there is no provision for temporary CPO’s. Member Bass wanted to know where it stops the procurement process. Ms. Carter replied that all documents indicate that contracts are not final and are not a binding commitment on the State to enter into a contract without the CPO authority and requirements have been met. There were no further comments or questions.

Chairman Vaught asked the Board if they would mind if they discussed the Concordia lease first. The Board agreed.

DOC Lease #4355 at 1301 Concordia in Springfield. In attendance was Mr. Ken Sharkey, leasing rep for CMS and Director Michael Randle with the Department of Corrections. Director Randle thanked the Board for the opportunity to address the issues of the lease at 1301 Concordia in Springfield. The current lease before the Board represents a substantial reduction from the previous lease. DOC has been a part of that community for over 30 years. The facility is located in one of the most repressed areas in Springfield. Over the years, DOC has established relationships with local community schools, churches and neighborhood kids. DOC told the lessor that it would be difficult to find another tenant if DOC was to move out and that fact should be reflected in the proposal that was submitted. Director Randle also stated that there are other costs to DOC if they were asked to move that still need to be assessed. DOC has had four cadet classes each totaling 120 cadets and those cadets are housed in the dormitories on the grounds of the Concordia facility. If DOC moved they would have to secure other housing for those cadets during those periods and that has substantial costs. DOC also hosts training for their 11,000 staff that are from all over Illinois and come to Concordia for training throughout the year. Some of the training lasts for days and that staffs also get housed in the dormitories to reduce the cost of hotel stays. Director Randle stated that he would answer any questions the Board might have.

Mr. Sharkey stated that this lease contains a purchase option, which the previous lease did not contain. The janitorial services will be taken in house with a minimal savings of \$40,494 per year. CMS implemented a 9% reduction in the security, which will save the State an additional \$16,000 a year. The previous lease contained \$2,250,000 in scheduled capital improvements and various maintenance related items. The current lease does not outline specific improvements, but the lessor will maintain the grounds and protect the physical integrity of the facility. The proposed base rent is \$12.53 per square foot through the term of the contract. Additionally, the lessor is providing a \$500,000 concession, which would reduce the rate to \$12.08. The adjusted rent rate is a 10.7% reduction from the current lease rate of \$13.58. This lease does not contain a termination option. The first year savings is projected to be \$575,446 compared to the current

lease and over the five year term of the lease, the total savings is estimated at \$2,877,232. The agency still has control over the \$450,000 funds in set aside for future use during the term of the lease. These funds may be utilized to re-stack space if warranted in the future. Mr. Sharkey will answer any questions the Board might have.

Member Bedore stated that he does not object to the facility or property, but does have issues with the rate and the square footage. On November 5, 2009 Tony Small from DOC stated that there were 8 employees on the 3rd floor of Byrd Hall where an elevator was going to be installed. Since the Board rejected the elevator Mr. Small stated that it is a safety hazard to have people on the 3rd floor. Mr. Small stated that in the past years DOC has lost a lot of staff. Why not relocate the 8 employees to other areas of the facility and get rid of the 3rd floor? Nick Kanellopoulos with CMS replied that he does not remember Mr. Small's comments; however, it is not a fire code requirement that an elevator needs to be installed to the 3rd floor. He believes that it was an ADA issue. The elevator has been removed from the lease without violating any ADA codes because the public does not need to go there for any purpose and any employee with special needs can be located to the 1st floor. Member Bedore stated that wouldn't it be easier to relocate the employees from the 3rd floor and eliminate the space on the 3rd floor since DOC has lost 80-90 employees in the past. Director Randle stated that DOC has currently located on the 3rd floor two sets of staff. It has 6 from the Grant accounting service from Shared Services and also 6 staff from a CPA firm who is conducting an audit for the department. This audit is expected to last the next year or so. There will be a potential need for the third floor, but if DOC vacates that portion they lose that option. Director Randle stated that the CPA firm for the audit needs that location to accomplish what they are doing. Director Randle also stated that the second group of 21 staff on that 3rd floor with 10 coming in on a part-time basis. DOC would be hard pressed to find another area in the facility to accommodate those 21 staff members given the types of functions that they are performing in that area. Member Bedore informed the Director that at the November meeting it was stated that there were 8 employees in that area and now you are telling the Board that there is 21. Director Randle replied that they are the Auditor General staff. Member Bedore wanted to know why in November it was stated that there were 8 employees. Mr. Sharkey replied that in November there were just 8 employees at the time. The numbers that Director Randle is giving you is what they are ramping up to this fiscal year. Director Randle stated that with the Auditor General staff, the CPA firm and Grant accounting staff there is a need for the 3rd floor.

Member Bedore wanted to know if the \$450,000 in escrow is on anyone's books. Mr. Sharkey stated that the lessor has that in an account for the agency's use. Member Morales asked if someone could explain it a little more the \$450,000 set aside and how it is to be used. Gladys Taylor, the CFO for DOC, replied that it has been set aside for repair and maintenance projects. Chairman Vaught asked how these funds are being applied in the new lease. Ms. Taylor stated that DOC has defined about 20 projects that are critical and would start within the next 180 days and over the lease term and be executed with those funds. Chairman Vaught asked if they are State funds or the lessor's funds. Ms. Taylor replied that the initial contributions to those funds were to be made towards the elevator. Steve McCurdy stated that the funds are State funds and he believes that they are in an account and not in escrow and would be payable to the State. He also stated that the funds could be used as rent abatement. Member Bass wanted to have a better picture of how those funds were set aside. Member Morales pointed in the white paper which states – under the current lease the lessor is required to maintain an escrow account from which \$50,000 per year to be spent for repairs or improvement at the agency's request. Mr. McCurdy replied affirmatively. Member Morales stated that under the new proposal no further deposits will be made to the account, but approximately \$450,000 will be made available. Member Bass wanted to know if there was any documentation on this original agreement. Mr. Kanellopoulos

replied that there is in the original lease in Appendix A exhibit I reference to the \$50,000 a year, which was originally going to be used for the elevator and other improvements, but never got used. Chairman Vaught asked if in the current lease there is any documentation stating that the lessor is required to utilize this \$450,000 or not. Mr. Kanellopoulos replied that it is mandatory for the lessor to spend those funds. However, the lease does not contain projects to be completed. Those are to be determined in the five years of the lease and if any improvements that is to be done by the lessor and is above and beyond that fund the lessor covers the first \$450,000 out of his pocket. Member Bedore wanted to know why this money was to be used as a permanent improvement to this property. A new elevator or a new roof is a permanent improvement to the facility and not state owned. The control over this \$450,000 is very loose particularly when it is stated permanent improvements. Member Ferrer asked if the \$450,000 could be used for rent instead of improvements. Mr. McCurdy replied that CMS has done that on other leases, but would have to ask the lessor to do that. Member Bedore wanted to know if CMS was able to re-negotiate a different rate for the garages or power plant. Mr. McCurdy replied that it has not been discussed. CMS focused their negotiations on a blended rate. Member Bedore asked if the State should be paying \$12.08 for a garage or power plant. It is entirely different than office space. It is the same thing that was done for the State Fire Marshal. Mr. McCurdy replied that it was his negotiating style in terms of overall blended rates and it may not be the way the Board would like CMS to proceed in the future and will take that into consideration moving forward. Chairman Vaught wanted to read the clause of the proposed lease. It states – “the lessee should have at its disposal throughout the lease term a general allowance of \$450,000 to be used for improvements at its sole discretion until depleted”. Does the department have a plan to spend \$450,000 on improvements on this property over the next five years? Director Randle replied that as for now there is no specific plan for the use of those dollars, but over the course of the lease period there will be issues that come up where having this option is desirable. If it would please the Board and if they are able to find a way to have those dollars applied for rent abatement DOC would not oppose that. Member Bedore asked if you pro-rate the \$450,000 over the five year term then you could get \$12.08 down. Mr. McCurdy replied affirmatively.

Chairman Vaught asked the Board to consider a conditional approval. For instance, if there was a conditional approval that would require the \$450,000 not be recovered in improvements, but be recovered in rent abatement or in cash, would the Board consider this? Both Member Morales and Member Ferrer replied that they would be in favor of this. Member Bedore wanted to have this explained a little more. Director Matt Brown stated that this lease would be recognized as an objection for this particular term and this lease would still be under objection unless it comes back with the agreed upon language. A motion was made by Member Morales to conditionally object pending the return of \$450,000 rent abatement in the new lease and was seconded by Member Ferrer. The motion was unanimously approved.

Next on the agenda was an update from CMS Facilities and Administrative Rules. In attendance was Mr. Nick Kanellopoulos representing the Bureau of Property Management for CMS and Scott Seder, Legal Counsel for CMS. Mr. Kanellopoulos wanted to update the Board on the holdover count. The current total is 34 leases that are in holdover or will be expiring between now and June 30, 2010. Of the 34 leases 27 are in holdover and 7 will be expiring. Since the last meeting CMS has terminated 9 leases throughout the State, which eliminated 207,000 sq. ft. from their portfolio and the first year savings from the terminations of those leases is \$2.48 million dollars. Also, for security CMS has currently reduced 3,661.25 hours from the statewide contract, which is 26.1% reduction since August 1. The total cost of the contract has been reduced 27.6%. At this point, no more security reductions are going to occur unless facilities are equipped with security cameras, card readers or security doors. No further comments were made.

Next Mr. Scott Seder gave an update to the Board on the administrative rules process. Mr. Seder was happy to report that a draft of the revision has been provided to JCAR and Director Brown and the Board will receive a summary of that document that included the changes that were made and the rationale behind those changes. Some of the key themes in the changes are: the change to performance base portfolio management or individual transaction management. Next is the greater accountability and efficiency for CMS transactions with the establishment of standards and criteria. The last is greater transparency in the process as a whole to put vendors and the public on notice as to how CMS does business. There are a few of the key rule changes that are associated with the above themes. The first would be the end of reliance on agency space requests. What CMS intends to do through its new rules is have agencies submit annual plans so CMS can look at each agency plans at one time and manage a performance based perspective. What CMS intends to do through these rules is require that each agency submit their need for space, the number of personnel required, the availability of funds for the space, the function of the space, number of clients to be serviced in the space, and any changes of occupancy. This will allow CMS to look at their inventory and see the big picture. The next is the reaffirmation of CMS authority further definition to its agency relationships and more transparency throughout. All places where CMS approval is required in the rules now will be required in writing. That is for greater documentation and accountability/transparency. The third major change in the rules would be the establishment of real criteria to assess decision making. On spacing standards CMS has proposed requiring that agencies maintain their occupancy at the levels that are currently configured once they are in under the space requirements. CMS will also be required to keep a list of all properties where the space standards exceed the guidelines and be required to do something about it every year and the Board would be able to ask CMS what they did and how many properties are on this list. Finally, some of the more dramatic changes in the body are the new and more transparent RFI process. The new rules will require the actual criteria for evaluating the proposal be in RFIs. The new rules favor electronic submission and formatting communications for transparency. The amended provisions will require that anything that is out of the norm will require justification in writing from the Director. These new rules will authorize CMS to make solicitations just for archival purposes, so there will be another way to measure what the best price per square foot is. CMS wants to avoid vendor confusion and create more accountability. The next steps are to work with the Board and JCAR and put these rules quickly on first notice. The intent from the CMS perspective is that they consider this body and the public to be umpires of their conduct and creating an updated strike zone and want the Board to hold them accountable. No comment or questions were made.

Next on the agenda was the official review of DCFS Transportation Services Help at Home. Director Matt Brown stated that this agenda item is a proposed contract review for DCFS for a contract titled CFS Transportation Service Help at Home. The Board put this under review on December 30 and requested procurement files be transferred to the Procurement Board for examination. Upon receiving documents from the agency a history and timeline was constructed on this contract. In April 2009, DCFS posted a change order for \$685,000 to a previously executed \$802,000 contract renewal. PPB staff questioned the reasoning for the 85% increase during the term of this renewal. DCFS agreed to put out a new bid considering the unanticipated growth of the constituent services provider under the contract. On 7-23-09, DCFS shortened the second of four available renewals to a six month instead of a one year renewal for \$356,500 in anticipation of a subsequent procurement. The agency indicated in their renewal that the expiration of renewal would be timely. On 12-14-09, DCFS posted the new award for these services as a result of the IFB. The established terms are estimated at \$7 million over the course of five years in expenditures. The effective date was January 1, 2010. The Board conducted its review and waived the remainder of its review period on that procurement on 12-15-09.

Subsequent to those events on 12-21-09, DCFS posted a change order again for the current contract renewal for \$398,000. This change order changed the obligation amount of the contract after the services had been delivered. The Board's proposed policy recommendation is to reinforce that no State agency obligates the State without first reducing the contract to writing. It is further recommended the policy be implemented that prevents agencies from unilaterally determining to further obligate the State beyond the limits of fixed contracts. Appropriate contract amendments and change order processes must be administered. Fixed term contracts are written in such a way as to prevent open order and undefined deliveries from the contract beyond the scope of the procurement. Policies should reflect that open order or undefined quantity contracts are allowable, but such contracts should contain limits to prevent unmonitored delivery that results in this unidentified obligation that is only presented when the contract is at a term, when the services are delivered and the debt is owed. Chairman Vaught wanted to hear from DCFS on this issue.

Representing DCFS was Procurement Manager Martin Sutherland. Mr. Sutherland stated it was a contract they awarded based on an hourly rate the transportation companies quoted. It was awarded to the low bidder and the total value of the contract was based on utilization. Since there is an untold number of kids and care at any one time the contract utilization depends on how many of those kids need transportation services. This contract was estimated to be just over \$800,000 initially based on what their historical figures showed for utilization. Two years after the contract was awarded, DCFS found that the utilization levels were significantly higher than what was anticipated when then contract was awarded. DCFS still has two years left for renewal options under the existing procurement. In consultation with Director Matt Brown and the PPB, DCFS had decided not to exercise their renewal option and put this out for bid again because the bids were high enough that it was thought DCFS could get a better price. DCFS had to have a contract in place through December 31 in order to make sure the kids had transportation services. It was critical that DCFS could not allow kids to not make their appointments. DCFS did a sole source initially from July 1, 2009 through December 31, 2009, but only used about \$365,000 of their anticipated expenditure for that period of time. DCFS knew based on historical figures that they would use twice that amount. DCFS tried to keep the obligation as low as possible and not over obligate against that contract for that six month period and come January 1, 2010 a new contract would be in place and close out the old procurement. Based on utilization and bills that were coming in from the provider, DCFS has to do another amendment for some \$300,000 to get through December 31, 2009. Director Matt Brown stated that it has been the general position of the PPB to dissuade from procurement via amendment and as they see large scale change orders that more than double the contractual arrangement, the PPB suggests the using agency look for a competitive selection. Director Brown stated that the agency was forthcoming in the first change order and stated they would do another selection to see if they could be more efficient, but PPB was concerned in the end with the final change order and obligation occurring after the new procurement was issued. From the PPB perspective, it does not lend to a good review knowing that the change order was pending when the procurement was awarded. No further questions were asked.

Next on the agenda was DCFS lease #5535 at 500 N. Green Bay Road in Waukegan. Mr. Kanellopoulos stated that this lease was rejected at the last meeting and CMS went back to the lessor and re-negotiated a better rent rate. CMS was able to negotiate a rate of \$15.75 for the term of the lease. That has been the rent rate on the lease since 1999. This rate is well below the market rate and asked the Board to approve this lease. A motion was made by Member Morales and was seconded by Member Ferrer. The motion was unanimously approved.

Next on the agenda was DCFS lease #5706 at 760 Peace Road in DeKalb. Mr. Kanellopoulos stated that this is an 11,681 sq. ft. lease that houses Child Protection Services placement unit daycare services for DCFS. CMS has proposed a five year lease with a rent rate of firm \$13.25 for the term of the lease, which is a \$1 increase over the current rate. There has been no rate increase since 2000 and he requests the Board approve this lease. Member Bedore asked if the sq. ft. per employee is a little high. Mr. Kanellopoulos replied that this is a very busy office and CMS determined that office is well utilized even though the personal space comes out to 307. Member Bedore stated that just because DCFS has an 11,681 sq. ft. does not mean they have to occupy the entire building. Chairman Vaught asked if DCFS could explain the need for the space. Mr. Chris Towers representing DCFS replied that there are six programs that run out of this building and the building is actually occupied and meets the needs for DCFS. Member Morales stated that sometimes the building meets the needs of the agency and the agency needs to make better use of the space and utilize it the best way they can. With no further questions, a motion to accept this lease was made by Member Morales and was seconded by Member Bass. The motion was unanimously approved.

Next on the agenda was PRB lease #4117 at 319 E. Madison, Springfield. Mr. Sharkey stated that PRB leased this space in 1985. The lease is scheduled to expire this June 30. The proposed rental rate is \$11.97. This is the same as the current rate and will remain the same throughout the lease term. There is a 120-day termination option. This lease does contain a tax escalation clause at 3% cap over the increase of the base tax 2010 payable in 2011. About 38% of the floor space is for containing file, records and storage. The property is well maintained and does not contain any significant deferred maintenance. Member Bedore made a motion to accept this lease and was seconded by Member Bass. The motion was unanimously approved.

Next on the agenda was DHS lease #4426 at 1279 N. Milwaukee Ave. in Chicago. Mr. Kanellopoulos stated that this is a 34,359 sq. ft. office. It is an HCD office for DHS. CMS has proposed a two year renewal of this lease that keeps the rent the same and the lease does contain a termination clause after the 12th month with a 90-day written notice. This lease was done to get the lease out of holdover and it is the intention of CMS to bid the lease out to get a better rate as soon as possible. Member Bedore made a motion to accept this lease and was seconded by Member Morales. The motion was unanimously approved.

Next on the agenda was DHS lease #4939 at 707 E Wood Street in Decatur. Mr. Sharkey stated that DHS has occupied this space since 1991. The current lease expired last month. Current base rent is at \$13.52 and the proposed rate is \$12.50 over the term of the lease, which represents a 10.2% rent reduction for an annual savings of \$37,970. Over the term of the lease would be \$189,854 in projected savings. DHS has decided to terminate its other DHS lease on Pershing Road, which is lease 4178. This lease will be consolidated with the lease before the Board today and 14 more staff will transfer to this location reducing the personal space down to 315 sq. ft. This termination on Pershing Road will save the State an additional 55,517 feet annually. Member Bedore stated that the 315 sq. ft. per employee is still unacceptable. Chairman Vaught asked if the termination of the other lease was complete. Mr. Sharkey stated that it is still a pending action. Chairman Vaught asked how long it was going to take. Mr. Henry Johnson with DHS stated that he was not sure how long it was going to take, but it is a process that has begun 1 year or 18 months ago and are at the point they are committed to doing this. The expectation is that the process will be completed by early May. A motion was made to approve this lease by Member Bass and was seconded by Member Morales. With a 4-0 vote the motion the motion was approved. Member Bedore abstained.

Next on the agenda was Legislation. Director Brown stated that at this point there is nothing to report out of the General Assembly pending future deadlines for legislative submissions.

The next Board meeting is set for March 11, 2010 at 11:30 a.m. in Springfield.

With no other business to discuss Member Bass made a motion to adjourn into executive session and was seconded by Member Ferrer at 1:00 p.m. The motion was unanimously approved.

The Meeting reconvened at 1:30. Motion to adjourn was made by Member Bass and was seconded by Member Bedore. The motion was unanimously approved.