

Chairman: David Vaught

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

### **Minutes – October 5, 2010 Meeting**

Present in Springfield: Ed Bedore  
Mike Bass

Present in Chicago: David Vaught  
Rick Morales  
Diego Ferrer

The Board started the meeting by confirming attendance at 11:00 a.m.

Member Bass made a motion to approve the minutes of July 8, 2010. The motion was seconded by Member Bedore. The motion was unanimously approved.

Next on the agenda was CMS Facilities. In attendance was Mr. Nick Kanellopoulos, Acting Director of Property Management. Mr. Kanellopoulos give the Board a brief update on CMS facilities. Mr. Kanellopoulos then stated that shortly after last month's PPB meeting CMS was contacted by the attorney at JCAR who pointed out that as of September 1, 2010 CMS does not have rule making authority regarding actual procurements and the authority will pass to the CPO. Mr. Kanellopoulos stated that he had a meeting with Matt Brown and they are working on going through the rules and separating what is procurement versus operational matters that are covered in the rules. Chairman Vaught asked Mr. Kanellopoulos if CMS has developed a policy on what they procure. Mr. Kanellopoulos replied that he has discussed it with Mr. Brown and they have not decided what comes under his authority and what comes under CMS' authority. Member Bass asked if that means space standards that could be more definitive put into rule that would control and operate your negotiations in your RFIs are under the CPO now. Mr. Kanellopoulos replied that he and Mr. Brown have not discussed that issue yet. Member Bass stated that from his stand point if that is the case then the Board is in a much stronger position to institute what they believe are adequate and proper space standards with the negotiation of the CPO. Mr. Kanellopoulos replied that they have not sat down and determined which will be under Mr. Brown's authority versus CMS' authority. CMS was hoping to do it soon, but Mr. Brown's schedule has been busy. Member Bass wanted to clarify that Mr. Kanellopoulos was stating that right now CMS is in a neutral position and that means current operations and current structure and policy is what has been forced. Is that fair to say? Mr. Kanellopoulos replied affirmatively. Member Bass stated that this is what the Board has issues with, is that correct. Mr. Kanellopoulos replied affirmatively. Member Bedore asked the Chairman for this to be in the Board's agenda and have a monthly update at each meeting for as long as it takes to get this resolved. Chairman Vaught agreed that it would be a good idea. No further questions were asked.

Mr. Kanellopoulos stated that next was an update on energy consumption. Mr. Donald Barnes with CMS gave brief update on energy consumption to the Board. Mr. Barnes stated that for the month of July 2010 there was a savings of \$369,000, which is a rough total savings of about \$1

million. Member Bedore wanted to know about motion light switches and sensor controls for lighting systems in State buildings. This was briefly talked about, but what about State leased buildings. Mr. Barnes replied that these are some of the things CMS is asking the landlords to consider when looking at participating in this program. Occupancy sensors are certainly something that is being advocated, however, concerns with these sensors are when the lights are turned on and off more frequently it causes ballast failure more often. Member Bedore wanted know why it has been a year and a half later and still nothing has been done. This shouldn't be something for the landlord to consider. It should be a part of the negotiations and in the contract. Member Bass wanted to know if CMS has locked in their kilowatt rate until May 2013. Mr. Barnes replied affirmatively. Member Bass asked if it was a 17% reduction from the prior contract. Mr. Barnes replied affirmatively. No further questions were asked.

Next on the agenda was Proposed Contract Review on DHS Lease 6277 at 1107 W. DeYoung Street in Marion. In attendance was Tony Baptist, Division Manager with Property Administration at CMS, Steve McCurdy with CMS, and Drinda O'Connor representing DHS. Ms. O'Connor started by answering questions brought up at the previous meeting regarding the security guard. Ms. O'Connor stated that when the security guard was removed from this particular office the Capitol Development regional staff made the determination that the security guard was still needed. With the director's approval DHS borrowed another security guard from the Murphysboro office. The guard drives back and forth between the two offices. They felt strongly that they needed a security guard present if some clients became uncontrollable. Chairman Vaught wanted to confirm that the other security guard was still eliminated. Ms. O'Connor replied affirmatively.

Member Bedore asked if the 2,400 sq. ft. of space had been eliminated. When talking to the staff at that location they responded that they didn't know where to eliminate any space. Mr. Baptist replied that no, CMS is not going to take the extra 2,400 sq. ft of space and will not be paying for it as soon as this lease gets signed. Currently DHS has 12,375 sq. ft. and will be reducing to 10,000 sq. ft. Member Bedore wanted to know why there is a five year no-cancellation clause. Mr. Baptist replied that it was a part of the negotiation. It is something that they try to avoid, but when you get a good rate it is hard not to pass up. Mr. Baptist stated that he advises his staff to not do it, but when it comes back that way, it is all they have. Mr. Kanellopoulos stated that this is not precedent, this is the exception rather than the rule, in which you just stated that most other leases have the termination option. This is not precedent. Member Bedore stated that it is continuing something that he believes is wrong.

Director Carter stated that it is recommended that the CPO revises administrative rules so that occupancy can occur at the highest and best use. As a matter of policy the CPO should establish standards requirements of CMS and its agency clients to determine whether a facility is no longer being utilized at the highest and best use of efficiency and usefulness of an agency. No further questions or comments were made.

Next on the agenda was Board discussion on circumstances and time frame allowed for extending the 90-day limit on emergency procurements. Currently the Code states that the CPO can extend the 90 days if they determine the extra time is necessary and then a hearing would be held to express the justification for that. Chairman Vaught stated that this was discussed at the previous meeting and wanted to know if there was any more to discuss on this issue. No further discussion was made on this item.

Next on the agenda was Board discussion of the effect of Pre- and Post-Procurement Reform “grandfathering” may have on the Procurement Process and the adequate way to proceed. Chairman Vaught stated that this topic was also discussed at the previous meeting and wanted Director Carter to introduce it to the Board. Director Carter stated that “grandfathering” has a large impact on renewals – 1,369 this year alone and 537 that are in excess of \$250,000. This is a discussion on how staff should proceed. Director Carter stated that it becomes unclear when it comes to conflicts of interest whether they should be submitted to the Governor’s office or to the PPB. The communication from the CPOs stated that when they first went from the Purchasing Act to the Procurement Code in 1998 they tended to use both systems for about a year, but in the end it became too much. Legal Counsel with CMS, Lynn Carter, stated that they would be happy to sit down with the Board and try to reach an agreement moving forward. Chairman Vaught stated that the Board can discuss this further at the next Board meeting.

Next on the agenda was Board Resolution – Filing of Financial Disclosures with the Procurement Policy Board. Director Carter stated that the resolution on the filing of financial disclosures be amended in the following way: for sole source and emergency procurements made under the Procurement Code the request should be made to obtain the financial disclosures and conflict of interests forms. For those procurements with financial disclosures unavailable, a form described by the Board will be filed in lieu of the disclosure stating the reasons for that and accompanied by SPO signature. The second amendment recommended is that purchases above \$25,000 and under the small purchase threshold still require financial disclosures. Member Morales made a motion to accept the resolution as presented and was seconded by Member Ferrer. The Filing of Financial Disclosures Resolution has been adopted by the Procurement Policy Board with a unanimous approval.

Next on the agenda was the Board Resolution regarding BEP/DBE Award Notice Requirements. Director Carter stated that after CPO discussion and discussion with CMS the current structure on BEP implementation would lead us to believe that our request that this be over all procurement would not be accurate and staff recommends that the Board repeal the resolution. Chairman Vaught asked if this was the resolution that was adopted at the last meeting. Director Carter replied affirmatively. Member Ferrer asked what the position of the CPOs is. Director Carter replied that when there is a BEP requirement they are already fulfilling this rule. The resolution is one that would apply to all procurements and that would not be correct. Currently there is a 20% goal and that is why they need to set up an implementation plan to set forth to meet that goal. Currently when there is a goal on a certain procurement CMS is meeting their requirements set forth. Member Ferrer asked does that mean we leave it up to their discretion if whether they comply or not, it is just a goal. Director Carter replied that in his opinion that would be the job of legal counsel to better determine when BEP should comply. Mr. Todd Turner Legal, Counsel for the Board, stated that the way it is understood now is that there should be goals that are set by the agency to determine what contracts are going to be used to try to meet those goals. There are some contracts that would not be used because they do not fall under the BEP act and therefore the resolution requesting information about BEP on a contract that it does not fall under BEP goals that is why it was recommended for the withdrawal. Member Bass stated that one of the things that trouble him is the way it is being proposed to do. He believes that this Board makes it clear that they are advocates and are support of increase of diversity and activities to spend across State Government. Member Bass would rather see about crafting a secondary resolution that better articulates exactly what we will get and some language that will allow everyone to understand and if it is not there or whatever the issue that is related to the BEP goal setting that it is clear than a repeal because there is some issue related to some support of BEP and diversity. Can the original one be written in a way that it is clear that this is the instance

when this would not apply? Todd Turner Legal Counsel for the Board replied affirmatively. Member Bedore wanted to know if there was a motion that could place this on hold until it is resolved. Mr. Turner replied affirmatively. Member Bedore stated that he would make the motion to move the previous resolution and put it into reconsideration and discuss it and the next Board meeting. The motion was seconded by Member Ferrer. The motion was unanimously approved.

Next on the agenda was Legislation – SB2887. Director Carter stated that SB2887 has passed the Senate and is in the Rules committee at the House.

The next scheduled meeting for the Procurement Policy Board will be set for a future date in November.

With no further business a motion to discuss a motion to adjourn into executive session to discuss personnel was made by Member Bedore made a seconded by Member Bass and unanimously approved and the meeting was adjourned at 1:10 p.m.

Following executive session the Board moved to return to open session for the following motions. Member Bedore made a motion to hire Tim Fishburn and Joshua Floyd at a salary of \$42,000 annually with a review in six months. Motion was seconded by Member Morales. The motion was unanimously approved. Member Bedore made a motion to give Deanna Rossetto a 5% increase effective November 1, 2010. The motion was seconded by Member Ferrer. The motion was unanimously approved. Member Bedore made a motion to adjourn and was seconded by Member Bass. The motion was unanimously approved.