



Chairman: David Vaught

Members: Ed Bedore, Ricardo Morales, Larry Ivory, Bill Black

Emergency Meeting

Minutes – March 21, 2012 Meeting

Present in Springfield: David Vaught
Ed Bedore
Larry Ivory

Present in Chicago: Rick Morales

Absent: Bill Black

The Board started the meeting by confirming attendance at 11:10 a.m.

Member Morales made a motion for Member Black to participate via telephone and was seconded by Member Ivory. The motion was unanimously approved.

Chairman Vaught stated that there is only one item on the agenda for today's emergency meeting and asked Director Carter to give a brief summary. Director Carter stated that lease 6294 is for the DES building at 2444 W. Lawrence in Chicago. There was a Board concern regarding the State payment for improvements for just over \$116,000. This lease is set to take effect this Friday, March 23, 2012. Chairman Vaught stated that this emergency meeting was called because if it went to our regular meeting it would have been outside the 30-day period. Director Carter replied affirmatively.

Representing CMS was Deputy Director Nick Kanellopoulos. Mr. Kanellopoulos stated the proposed lease is 14,502 square feet and the overall square footage per employee is 238. Mr. Kanellopoulos wanted to note that this was the fourth busiest DES office in the entire State. CMS has been working on trying to secure a long term lease for this DES office for a long time. The initial RFI CMS published was in November 2009 and no offers were received. In June 2010, CMS entered into a 365-day lease to get it out of holdover and give CMS time to publish a second RFI. The second RFI was published in July 2010 and it came from the current owner. The current owner had issues providing CMS proof of site control and CMS had to reject the offer that came in. Subsequently, that owner was foreclosed on. CMS re-advertised a third time in November 2010 and received two offers, which he will refer to as Lawrence and Bradley Place. Mr. Kanellopoulos stated that Bradley Place was deemed lowest cost offer and CMS went forward with negotiating a final lease with Bradley Place. During that time DES got a new Director and a new high level administrative staff that were over their property department. DES came to CMS and said that they were not happy with the Bradley Place location for several reasons. One was that the closest bus stop was several blocks away in either direction. They didn't think that was a great location for them. Second, Mr. Kanellopoulos stated that the way the building is designed the waiting room is very small and cannot be changed and DES was very concerned that in times of high unemployment in that area there will be constant lines outside that office. DES was also concerned that across the street from Bradley Place was the WGN Studios and thought of the privacy of their clients standing outside in line and having a TV station across the street was not a good situation. CMS decided to re-advertise. At this time, the issues with the current owner of the proper had been resolved and a receiver had been appointed by the court and CMS felt there would be a more competitive price if they were to re-advertise. The forth solicitation was published

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August 2011 and two bids were received, again, from the incumbent and the Bradley Place. The Lawrence offer was analyzed and deemed the lowest cost offer and CMS went forward to negotiate the lease, which is before the Board today. Mr. Kanellopoulos stated that it is his understanding that the improvements are an issue here today. Mr. Kanellopoulos stated that because CMS is dealing with a receiver, the receiver refused to take on those costs in the lease. The receiver wanted it structured so that the State would be paying for the improvements over five years. They felt that way when it came time to dispose of the building those obligations would not get in the way of the disposal. So, CMS structured it that way. Mr. Kanellopoulos wanted to point out that the other offer for Bradley Place had \$800,000 for improvements and that landlord structured a deal that the State would be paying for those improvement over 10 years. Even when you compare those two the Lawrence Avenue deal is a much better situation for the State and he believes by far the lowest offer CMS received in any of the RFI's they published. The CMS analysis shows that the 10 year total cost of occupancy would be \$3.63 million. The offer that was received from Bradley Place would be right at \$5.1 million. Although the Board may have concerns on how the costs are allocated, Mr. Kanellopoulos stated that this is the lowest cost offer. He also wanted to point out if the receiver was aware that they would be taking on these costs he imagines that the bid would have been different. Since we don't get anything for free the cost would simply be built into the rent. We would not be escaping those costs they would just be structured differently. Mr. Kanellopoulos respectfully asked for the Board's approval on this lease.

Member Bedore asked if DES were moving in on Friday. Mr. Kanellopoulos replied that the incumbent won the bid so they are staying in the same building. Member Bedore asked if CMS was paying 6% a month for amortization. Mr. Kanellopoulos replied affirmatively. Member Bedore stated that when you add in janitorial and everything, except security, it comes out to \$21.00 a square foot. Plus, CMS is not sure what the escalator will be on the property tax until next year. Mr. Kanellopoulos replied affirmatively. Member Bedore stated that you don't see it when you are comparing the old lease because the old lease was based on a different base year. This might be another dollar or two the last one was \$3. This could bring the rate up to \$22.00 or \$23.00 a square foot. Mr. Kanellopoulos replied that the old lease was base year of 1993 payable in 1994 and today we are at 2011 payable in 2012 and that \$3.42 was an entire increase over the entire period of time and it might be a dollar or two over the life of the lease. Member Bedore stated that his question is why this owner is going to be receiving \$2.5 million and they can't afford \$100,000. Member Bedore wanted to know who was going to do the painting. Is that going to be receiver's sister's ABC Company or is it going to be sister's mother's carpet company or is it going to be receiver's brother's remodeling company. Member Bedore stated that if CMS was going to do a \$100,000 purchase for the State you would go out to bid. Is that correct? Mr. Kanellopoulos replied affirmatively. Member Bedore stated that in this situation we do not go out for a bid. Is that correct? Mr. Kanellopoulos replied affirmatively. So, what we are saying to this owner is to go out and hire whoever they want to do carpeting, painting and remodeling. Are these companies they hire bound by the State minority participation? Mr. Kanellopoulos replied no. Member Bedore stated that we are just giving \$100,000 to this receiver and are saying "spend it". Mr. Kanellopoulos replied the way that improvements work according to the Procurement Code and to the Administrative Rules is CMS can only pay for this as additional rent in the lease. CMS will not directly pay any of these people to do that type of work in a facility. Hiffman Asset Management is a court appointed receiver. To meet CMS' obligations they have two choices for any improvement done-the landlord either has to get three bids and show CMS the lowest bid and take that. A lot of the times they don't do that because they have companies they work with on their properties and don't want people they never have worked with before. The second way it works is they submit costs for the improvements, which are reviewed by the CMS architect to determine whether those costs are fair and reasonable. Mr. Kanellopoulos stated that he doesn't have it in front of him, but he believes that the second approach is what was done in this situation and not the three bids. Mr. Kanellopoulos stated that to which vendors they choose Member Bedore is correct CMS does not have control over or say over that. Under the current structure of the Code and the Rules CMS does not allow them to have a say. Member Bedore stated that there are bills floating around about getting property managers. Here is something that maybe CMS should do because we are turning over money and in this case \$100,000. Member Bedore said for example Blue Island where millions of dollars were spent and CMS didn't know who the landlord hired. Mr. Kanellopoulos replied affirmatively. Member Bedore stated that there is an amendment that should be put in. Mr. Kanellopoulos stated that in this case, unlike Blue Island or most other cases, because it has a court

appointed receiver he assumes they would have to show a court an accounting of all expenditures whether we are paying for them or not.

Member Bedore asked if the remodeling being done to the washrooms are to bring the building up to ADA standards. Mr. John Rogers with Department of Employment Services (DES) replied that the building is under the Illinois accessibility called "all accessible" and had in there ADA requirements "as they see fit". They can upgrade those requirements, but everything is accessible right now to ADA standards. Member Bedore wanted to clarify that this building is ADA acceptable today. Mr. Rodgers replied affirmatively. Member Bedore asked if the carpet is going to be environmentally friendly carpet. Mr. Kanellopoulos replied that all of their requirements are, but doesn't have the requirements with him and would provide them to Director Carter. Member Bedore wanted to make sure that none of these improvements have been started. Mr. Kanellopoulos replied that CMS always instructs their landlords that they cannot start improvement until they have a signed lease in their hands. Mr. Kanellopoulos stated that he is not going to say that some landlords don't start things early on their own because they do. In this situation he is sure that this landlord is not going to spend a penny until he has a signed lease he can provide to the court. Member Bedore had one other question about the square footage. Member Bedore wanted to know if it was normal to have 30% of the lease for public use. Mr. Kanellopoulos replied that, as stated before, this is the fourth busiest office in the State. Member Bedore stated that he understands that, but 30%. Mr. Kanellopoulos replied that it is not just a waiting room with chairs. There are areas for people to look for jobs, work on their resumes and that is not personnel space for employees. Mr. Kanellopoulos replied that this is an incredibly busy office and would invite the Board to come and visit and see how it works. Member Bedore asked if Mr. Kanellopoulos thought if 30% of the entire lease for a public area is a little high. Mr. Kanellopoulos replied that when you consider the amount of foot traffic and amount of files that in this situation he does not. Member Bedore asked when negotiating with this receiver on whether you use the \$2.4 or \$3.6 million there was not a \$100,000 to give. Mr. Kanellopoulos replied that when CMS receives their offers and they select who they believe is the best for the State they negotiate further to attempt to lower the cost. Here it wasn't an issue that there wasn't a \$100,000 to give. The receiver is steadfast that the contract did not obligate them at their cost to do these improvements. That is why it was structured the way it was because the \$100,000 wasn't going to go away. They wanted it structured this way for purposes of disposal of the property later. Member Bedore stated that if they didn't get this lease it was definitely going into receivership because it would go belly up. Mr. Kanellopoulos replied affirmatively. Member Bedore asked what CMS is paying \$2.5 million for because he doesn't get it. Mr. Kanellopoulos wanted to stress again that this was advertised four times and this was the lowest cost offer CMS received. Member Bedore wanted to see the bid that was rejected by DES and not CMS. Mr. Kanellopoulos replied that the Bradley Place bid that was rejected CMS analysis showed a total 10 years cost of occupancy was \$3.91 million and comparing that to the Lawrence offer, which was \$3.63 million the next time it was bid.

Member Morales asked if there were any concerns from CMS with regards to stability of ownership. Mr. Kanellopoulos replied that in the past three or four years CMS has had numerous properties that they lease where the owners have been foreclosed on and CMS deals with receivers and also dealing with new owners. It does concern CMS, but their first goal is to obtain the lowest cost lease.

Member Ivory stated that Member Bedore is the champion when it comes to leases because he is real thorough and asks the tough questions and Mr. Kanellopoulos has done a lot of work and negotiating and trying to bring this to a conclusion when he listened to his comments in the beginning. Member Ivory stated that it seems like Mr. Kanellopoulos has done a good job in terms of analyzing the best possible offer for the State and he is comfortable in terms of moving forward because he knows that this is a time sensitive issue and has confidence based upon Mr. Kanellopoulos' analysis and the team's analysis. Member Ivory stated that he does agree with Ed that any time that the State is spending money on improvement is that probably at some point in time there should be some oversight and some more regulations put into place so there can be BEP goals put into that category. Member Ivory stated that he is prepared to move forward.

Chairman Vaught asked how many offices DES has. Mr. Rogers replied 52. Chairman Vaught wanted Mr. Kanellopoulos to explain more on the DES objection in the period of November 2010 and February 2011. Chairman Vaught wanted to know why those objections came in at the end of the process and not during the specs of the lease in the first place. Mr. Kanellopoulos replied that CMS pushes agencies to accept the lowest

cost offer and to make some concessions on things like that to accept the lowest cost offer. The reason this came at the end was because DES got a new Director and a new administrative staff who looked at this and felt when the objections added up they asked CMS to go out on another bid. Chairman Vaught stated that in the meantime temporary extensions had to be done which had a cost. Mr. Kanellopoulos replied that they did a six month extension and another extension, which is the one expiring. Yes there is cost associated with those extensions, which were the original rent rate from the expiring lease.

Chairman Vaught wanted to clarify that even though it would be nice to have this resolved earlier it often comes down to an actual property after the bids are in – in terms of making sure the agency does not have any objections. Mr. Kanellopoulos replied that he cannot remember where CMS had waited to the last minute to start over. Chairman Vaught asked if the Rules make any distinction between types of improvements. He thought it was stated that these temporary improvements had to be in benefit of the user. How do the Rules even allow this to be done? Mr. Kanellopoulos replied the Rules would deem these improvements to be “temporary improvements”. Electrical work is considered to be temporary improvements. There is a big difference between permanent and temporary improvements and these are deemed temporary improvements in their Rules. Chairman Vaught stated that it is under standard practice that these types of improvements are landlord expenses in most real estate situations. Chairman Vaught’s point is does the Rule cover that? Mr. Kanellopoulos replied that there is discretion to negotiate who pays for what in this. Chairman Vaught replied that he understands his answers. Chairman Vaught asked if CMS has Rulemaking authority to deal with these BEP or other questions or would that require a statutory change to add some further safeguards into this subcontracting essentially by landlords. Mr. Kanellopoulos replied that he believes that CMS would have the authority to require the landlord to meet BEP goals, but would have to check to make sure. Chairman Vaught stated that Mr. Kanellopoulos agrees that there are a number of ways that can address this concern Member Bedore has about leaving everything up to the landlord to do what they please. Mr. Kanellopoulos replied even if they had BEP goals the pool would be BEP certified vendors, but it would still be up to them as to how to do it. Chairman Vaught clarified that Mr. Kanellopoulos is saying that there might be some ways to have greater control over this choice or type of subcontractor that we could explore. Mr. Kanellopoulos replied affirmatively. There would be ways that could benefit the State goals to increase BEP participation.

Member Ivory wanted to know if CMS negotiated the best deal possible because this owner was going into receivership. Mr. Kanellopoulos replied that one way to answer your question is to compare the offer that was put in by the last owner of the property versus the offer that was put in by the receiver, which is the lease that is before the Board today. The last offer that was put in by the owner for the same property for a 10 year total cost was \$4.67 million. The gross square footage cost would have been \$34.63 over the 10 years of the lease. The offer that is in front of the Board today is a little over a million less for 10 years. Member Bedore stated that Mr. Kanellopoulos said that the amortization at the Bradley Place was 10 years, but here is says five. Mr. Kanellopoulos replied that he thought it was 10 years. Member Bedore stated if you compare this proposal with the one that was accepted; first the Bradley Place is a 1,000 square feet less per year. If you look at the rates it is in the first year they are both \$15.50. Second year Bradley is \$15.50 and Lawrence is \$15.81, third year Bradley \$16.28 and Lawrence \$16.13, fourth year Bradley is at \$16.28 and Lawrence is \$16.45. In the fifth year on the one that was rejected is \$17.09, which is higher than Lawrence. Then in the sixth year Bradley is at \$17.09 and Lawrence is at \$17.12, which goes on and on and in the end Bradley is at \$17.94 and Lawrence is \$18.71. The big difference is the tenant improvement. It was \$1.38 at Lawrence compared to Bradley Place at \$2.46. Member Bedore can’t figure out why this lease is so bad except that the department rejected it because they are afraid of WGN News. Mr. Kanellopoulos replied that the State is paying less over the 10 years with the current offer. Member Bedore stated that he just answered his own questions that it is the amortization is \$2.46 at Bradley opposed to \$1.38 at Lawrence. Member Bedore asked if the Bradley Place needed that much improvement or did the agency say this is what they want and need. Mr. Kanellopoulos replied that agencies don’t get what they want. He said that his staff works very hard to eliminate all unnecessary improvements, but work hard to lower the cost on improvements that they do need and try to use surplus cubicles instead of buying new or building cubical walls. They look for ways to cut the costs of the improvements.

Member Morales asked if this lease had a purchase option. Mr. Kanellopoulos replied that under the Code anytime we rent 100% of a facility the lease has to contain a purchase option. Chairman Vaught stated that

the Board could object in a binding way. Director Carter replied affirmatively. Member Bedore commented that he believes something should be done about this process because the State does not have the oversight that they should have. Chairman Vaught asked if there was a motion to object this lease. Member Morales stated that the Board has been at this crossroads before. If the Board objects it's going to cost the State more money. The Board is here to make sure that the State doesn't spend more money, but save money. The value of this here is that the Board did bring up some good points that should be looked at and followed up on.

The next scheduled meeting for the Procurement Policy Board is set for April 5, 2012 pending Board confirmation.

With no further business to discuss a motion to adjourn into executive session was made by Member Ivory and was seconded by Chairman Vaught. The motion was unanimously approved.