



Chairman: David Vaught

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

Minutes – October 17, 2012 Meeting

Present in Springfield: Ed Bedore
Larry Ivory
Bill Black

Present in Chicago: Rick Morales

Absent: David Vaught

The Board started the meeting by confirming attendance at 10:05 a.m.

A motion was made by Member Morales and was seconded by Member Black to have Member Bedore act as Acting Chairman in Chairman Vaught's absence. The motion was unanimously approved.

First on the agenda was the approval of the minutes from the September 17, 2012 Board meeting. Member Black made a motion to accept the minutes as printed and was seconded by Acting Chairman Bedore. The motion was unanimously approved.

Next on the agenda was CMS Facilities. In attendance was Deputy Director of Property Management at CMS, Nick Kanellopoulos. Mr. Kanellopoulos gave the Board a short update on some of CMS' activities since the last Board meeting. He stated that their total leasing cost reduction since Governor Quinn took office stands at just over \$51 million - the number is annualized. CMS has eliminated 2.28 million square feet of leased space. To put it into perspective, when Governor Quinn took office CMS was leasing about 9 million square feet of property around the State. Also, since that time CMS has re-bid or re-negotiated 288 leases. On average CMS achieved an average of 18.39% reduction in the total cost of each lease that has been re-bid or re-negotiated. CMS has been averaging 11.78% reductions in square footage for each lease that was re-bid or re-negotiated and reduced their total number of leases since January 2009 from 547 to 384. Mr. Kanellopoulos stated that he would be happy to answer any questions the Board might have.

Acting Chairman Bedore asked about lease 4233 for DHS where there was personnel space of 399 square feet per employee. How can you justify that? Mr. Kanellopoulos replied that CMS issued an RFI to do a consolidation in the area that was going to consolidate five leases into one. Those leases were in Warrensville and Louisville. CMS actually got a proposal and awarded the lease and during the negotiations the final number for the cost of this consolidation was going to exceed the cost of all of the leases by a fair amount. So CMS determined to cancel that and go back to square one. Several of these leases are expiring so they didn't have time to do anything else so these leases are basically just holding steady until CMS can determine where their next step is. It will be a consolidation. The five leases into one were too large. CMS is pretty sure that any consolidation that they do is also going to require a build-out and will take time. CMS will have to re-bid it and award it and then build-out a space. Even if they are successful it is going to take a long time before these offices can consolidate. Therefore CMS did do this lease for 60 months, but they can get out of it at any time with a 120 days' notice.

Acting Chairman Bedore asked if Robinson is a five year lease with no cancellation. Mr. Kanellopoulos replied affirmatively. Acting Chairman Bedore stated that this just points out what Chairman Vaught and he

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have been talking about with these leases with no cancellations. As far as he is concerned, any lease that comes before the Board in the future, if it does not have no cancellation clause in it, you will have to stand on your head to get it approved by the Board. Mr. Kanellopoulos replied that he understood. Acting Chairman Bedore asked about the lease that was moving from Root Street to Ashland and there were 7 employees. Mr. Kanellopoulos replied that Acting Chairman Bedore is confusing two Ashland leases. Acting Chairman Bedore stated that he is concerned about the 7 people that are moving. They are going to move from one location to another. Mr. Kanellopoulos replied affirmatively. Acting Chairman Bedore stated that these 7 employees are going to have a build-out by the owner, which will be charged to us and plus the State is putting in \$30,000 just to build-out a break room. Why do we need a break room for seven employees in a small office? Why can't they just eat at their desk or go out and eat in the neighborhood. Mr. Kanellopoulos replied that one the break room is a small office where they are going to put in two small cabinets small counter top and like you said this is a very small office. That office is going to be busy all day and it isn't the best situation to have employees eating around other employees who are seeing clients. Acting Chairman Bedore asked if employees ever go outside and eat. Do they ever go out and help the economy in the neighborhood around them. Mr. Kanellopoulos replied that he thinks that it is appropriate for staff to have it and also there is a labor relations argument. Mr. Kanellopoulos replied that he thinks it is appropriate that they provide them with a small break room, which is a small office, where they can eat their lunch and not in front of other employees with clients in the building. Acting Chairman Bedore stated that the State is going to pay a higher rent because of the build-out, plus we are giving them \$30,000 of taxpayer's money so these 7 employees can have this space. Acting Chairman Bedore commented that the \$30,000 plus the higher rent that CMS is paying doesn't matter. Mr. Kanellopoulos replied that he thinks that it matters, but he believes it is appropriately being spent here.

Member Black asked if he knows if any water or plumbing will have to be run to the break room. Mr. Kanellopoulos replied no plumbing will be done. The other cost is because they have to move a door from one side of the room to the other so you would not enter the room from the waiting room.

Member Morales wanted to know if there was a policy on how many people it takes to have a lounge or break area or whatever it may be, and would like to know what that is or if there is a standard out there for that. We can argue the point that it could be better spent, but at this point certain areas do call for maybe having some type of lounge area, but again he would like to know what those standards are if there are any. Mr. Kanellopoulos replied that he believes that there are certain standards regarding providing vending areas and even full blown kitchens depending on the size. This does not meet that. He thinks that this was done because the size of the office is going to be very small and clients and employees will be in the same area all day long all the time. Also, that area may not be an area where people are going to feel comfortable walking outside and going to lunch every day. Acting Chairman Bedore stated that he disagrees with that. Acting Chairman Bedore stated that this office was separated from the other DHS because there was Hispanics and Blacks and the Hispanics wanted their own office. So CMS moved this office to a Hispanic neighborhood. They shouldn't have any problem in the world walking outside and getting lunch so do not use that as an argument.

Member Black asked if there was any contractual language when you move offices or go to a new leased facility that requires a break room or does it kick in at a certain number of employees, etc. Mr. Kanellopoulos replied that the word from CMS labor relations staff is that it is preferred that we do not change the conditions of the employment. So if employees are coming from a location where they have free parking they would prefer not to eliminate those at the new location because it is grievable to change conditions of employment. No further questions or comments were made.

Next on the agenda is the Illiana Expressway. In attendance were CPO Bill Grunloh, Roger Driskell with IDOT and Steve Schilke, Project Manager with IDOT. Mr. Schilke wanted to give the Board an update of the study. Right now the study is in the Environmental Impact Statement (EIS) portion, which is phase one. Mr. Schilke stated that this is the National Environmental Policy Act process. Because this is a 900 square mile area IDOT separated it into two tiers. Tier one determined what is it, where is it. They identified where the corridor is going to go. At the end of tier one, they are looking at about a 2,000 foot wide corridor, which really defines an area that they can actually do the field studies and do the geometrics and all that work in tier two. In tier two they really define where that working alignment is and what they are actually

going to acquire for land acquisition. Mr. Schilke stated that right now they are at the end of tier one. Since the last time they presented they went to a public hearing displaying three corridors that they were carrying forward in the draft DIS, which is the environmental document. On October 9, 2012 IDOT announced the preferred corridor going forward in to tier two. That is the B3 corridor, which is about 47 miles connecting I-55 to I-65. That gets put into the final EIS. This preferred chapter describes the details of why they are recommending that the B3 corridor be advanced forward into tier two. We are on schedule to complete tier one by the end of 2012 and then tier two would formally begin. IDOT is taking advantage of MAP21 and combining the final EIS and the Record of Decision (ROD). Mr. Schilke stated that they would like to complete tier two by the middle of 2014. Mr. Schilke stated that they just finished doing a supplement to the original contract of PB Americas. That supplement was for about \$19 million to do the tier two portion and they are going to start tier two as soon as tier one is completed. Mr. Schilke stated that he wanted the Board to be aware that on the next PTB Bulletin IDOT is putting an advertisement out for land acquisition services to start doing the title searches along the corridor. They have three different contracts estimating about \$1.5 million per contract and all with a 15% DBE requirement. The overall DBE percentages for the Illinana are 18.6%. CPO Grunloh stated that he just wanted to add one more thing. Coming up on the next PTB IDOT made a commitment to the Board that they would give special notice to Director Carter when those happen. When the contract comes across his desk his office makes Director Carter aware of it, besides posting it to the Transportation Bulletin so the Board is aware of them. IDOT is also are in the process of working on an RFP to be posted in the very near future for a project manager to assist in starting to look in the at the Public Private Partnership (Triple P) part of this. The Board will be made aware of this twice first from CPO Grunloh himself and second from the posting on the Bulletin. Mr. Schilke stated that then they will start the Triple P portion of it in tier two.

Member Ivory stated that he knows what the rules are in reference to DBE participation and you stated that the 20% goal has been established, but I would like to see, what I am concerned with specifically, is even in the DEB breakdown I like to see the breakdown. I think it is clear that the State wants to make sure there is diversity in different categories. For example you had 100% African American participation and there were no Hispanic or white females or other females. Could you make sure that the Board has a break down. I would like to see that break down of the DBE participation. CPO Grunloh replied that he believes that Legal Counsel Ellen Schanzel-Haskins gave you that on the prior contracts and would assume she would continue to do that. He will make sure that she gets that message.

Acting Chairman Bedore asked if the original contract was \$9 million dollars. Mr. Schilke replied affirmatively. Acting Chairman Bedore asked then your supplemental was \$19 million. Mr. Schilke replied affirmatively. Acting Chairman Bedore commented that we have \$28 million. Mr. Schilke replied affirmatively that there is \$28 million dollars obligated to PB Americas. Acting Chairman Bedore asked if there was going to be a second supplemental agreement. Mr. Schilke replied yes. They currently have in their budget about \$40 million. They are looking at this to be around that amount. Most likely there will be a supplement after that. Acting Chairman Bedore wanted Mr. Schilke to refresh his memory on where these funds were coming from. Mr. Schilke replied that they are just within their annual road funds. CPO Grunloh replied that they are State funds. Acting Chairman Bedore asked what the State's portion of funding that would come of the road fund. Mr. Schilke replied that part of tier two is looking at the financial analysis to figure out how they can actually deliver this project. Part of that analysis is working with Public Private Partnerships (P3) to figure out exactly how to fund this. Mr. Schilke stated that their current estimate for the overall project, this is without Public Private Partnerships and other finances, is around \$1.3 billion. That is for the land acquisition, the engineering and the construction of this facility.

Member Black stated that he remembers FA411, which goes back about 40 years and knows that IDOT spent a lot of money on studies. IDOT didn't have to do all of the environmental impact studies that we have to now. It was to build a 4-lane highway on the eastern side of the State, which he was all for that because that is where I live. The only way to get to the Chicago Metro area is 2-lane roads. You could go over to I-57, but that came along later. IDOT spent a lot of time, public hearings and he thinks that it was going to run from Mt. Vernon up the eastern side of the State to the Chicago road network. Member Black stated that he is not sure how much money IDOT ended up spending, but it was never done. Then Indiana decided if Illinois wasn't going to do it they would do it with Route 63, which is a limited access 4-lane. Then I-57 came along later and the eastern part of the State is still stuck with Route 1 the first State

highway often referred to as the Dixie Highway because it ran from Chicago to Florida still a two lane road. There are distribution facilities that rouse about that all the time. They find a way to get over to I-57, but he guesses that after going through the excitement of FA411 and never came to pass. How real is this or is it just a study or will it really comes to pass. Member Black asked if there is a point in which IDOT will stop spending money until you get the full financial analysis and see whether this is feasible and doable or do we keep spending money thinking it is. Mr. Schilke replied that they have programmed out \$40 million and are looking to do the P3 next year, which will be around \$6 - \$12 million, depending on how they are going to procure it, and at that point then they would know whether or not it's truly feasible. Indiana has been a really good partner to work with the entire time. They turn around their payment really quickly and have recouped all of the invoices so far. Member Black asked if Mr. Schilke knows why they turn their payments around quickly, because they have a billion dollar cash surplus in the budget. He only lives 8 miles from Indiana and is fascinated on how they do things.

Mr. Driskell stated he wanted to add with the finance IDOT is taking early looks on the financial options, but even with the public private partnership, the private sector will finance a bad project so the need to do a lot of upfront engineering and environmental work to make sure it is a good project. Unfortunately there is a lot of expense upfront, but want to make sure that it is a viable project. Then if it is viable then IDOT needs to look at how they can fund it. Member Black stated that was his concern because he was shocked when he saw this year's budget to find that there was actually money appropriated to continue buying land for the 3rd airport because he was lead to believe it was given up on 3-4 years ago.

CPO Grunloh stated that from a procurement standpoint the engineering part he agrees with Mr. Schilke and Mr. Driskell that the study has to be done first and that the way the legislation was written the PPB has enhanced oversight when they actually get to that Triple P contracts and see what kind of proposals we get on financing and building it and doing all of those kind of things. So there is added oversight from this Board as well as other people who normally wouldn't have. The Department is trying to do it right to prove that it is a viable way to go forward and financing these large projects that maybe can't get funded anymore. Member Black stated that he is glad to get the updates, but he just doesn't want the State to spend a tremendous amount of money and then end up walking away from it. Mr. Schilke stated that this project is on a very fast paced schedule. IDOT is completing tier one in about 18 months and tier two in another 18 months. So this is a 3 year AIS and normally AIS's can take up to 5-6 years. So we are on a very consolidated schedule, which helps on the money aspect of it getting to that question of viability before you end up spending 6-8 years on this particular project.

Member Morales asked if the \$1.3 billion was in today's dollars. Mr. Schilke replied no, that it is from FY18 assuming we get a concession hire on board in 2013-2014 and a 3 year construction schedule for this project and so it is 2018 expenditures.

Acting Chairman Bedore stated that Member Black has raised some really good concerns. A lot could happen. Acting Chairman Bedore stated that Mr. Schilke used the phrase "if it is a good project". I just hope we keep that in mind somewhere and if it doesn't work, it doesn't work. I just hope we reach a point and we say goodbye or move forward and hope we make that determination before we spend another \$100 million dollars. No further questions or comments were made.

Next on the agenda is the EEC Procurement Compliance Monitors Attorney General Opinion. Director Carter stated that at the request of the Executive Ethics Commission, the Attorney General put forth an opinion overall on the Ethics Commission and their involvement in procurement. Director Carter stated that he will not read the entire 10 pages, but will read some of the bullet points regarding the PCM's. The EEC retains jurisdiction over all CPO's and PCM's and their respective staff with regards to matters arising under the Ethics Act. The EEC possess jurisdiction over matter arising under the Procurement Code only if the EEC is granted exclusive authority by the Code. The Procurement Code does not authorize the EEC to direct the day-to-day procurement activities of the CPO's, PCM's or their respective staffs. PCM's will report to the CPO's. Although the PCM's are not confirmed by the Senate they report to their appropriate CPO and not to the EEC. The General Assembly vested the authority to make rules, policies in day-to-day procurement decisions in the Procurement Policy Board and the CPO's. Director Carter stated that Director Fornoff was not able to attend today because it is the same day as the Executive Ethics Commission

hearing, but the CPO's are available if the Board has any questions or comments. No questions or comments were made.

Next on the agenda was the University of Illinois Update on the Natural History Building. In attendance was CPO Ben Bagby. CPO Bagby stated that the Board asked for an update on the Natural History Building procurement. His understanding is that the evaluation committee has completed their evaluation and is to make a recommendation that should be done shortly. The recommendation will go to the Board of Trustees at their next Board meeting. Member Black asked why the lag time between selection and construction phase. CPO Bagby replied that the work that was done before was the preliminary work. This will be the actual work that needs to be done. Member Black asked if it was just going to be a gut and updated to contemporary standards. CPO Bagby replied affirmatively. Member Black commented that we will not see a completed building until 2017. CPO Bagby replied that the completion date is to be confirmed. No further questions or comments were made.

Next on the agenda was the CPO for Higher Education on the Conflict of Interest Policy. CPO Bagby stated that based on the conversation at the last PPB meeting he rethought the process of how this conflict of interest policy might be implemented. The actual decision on whether the conflict is waived or not is with the Board or the Executive Ethics Commission. He also indicated there are some situations that when he presents these to the Board, he will show them as a presumed conflict in an area that are not something that he sees as a good idea for acceptance. Whether the Board accepts that or not it is up to you, but at the same time he is also going to suggest that even when there is a situation where there is an employee of the procurement office that has interest in a contract, there may be some situations where he might have to recommend going forward. CPO Bagby gave a few examples. He stated that he has circulated this draft to the Universities. This particular draft he has only received one comment so far. CPO Bagby asked if the Board had any questions or comments on ways that this might be better stated, he would be willing to listen to those and consider putting them in place.

Acting Chairman Bedore stated that there is an exclusion list of about five or six items that are excluded. CPO Bagby replied that these are not exclusions, but these are situations where he thinks that maybe could be examples of situations where the presumption that the conflict should not be recommended and might be overridden because of the circumstances. It doesn't mean just because it is an emergency it goes. Just because it is a sole source it goes. It might. It is going to be one of those factors where he is trying to identify the things based upon past experiences and is trying to think about the future and set some standards so people can understand how this might be administered and not just done and is not a surprise. These are situations where CPO Bagby thinks that we may have to let it go because the situation is so important that we have that contract that the State employee has an interest in that there is just nothing else to do. Acting Chairman Bedore stated that he understands what he is saying. That scenario that could be the biggest problem in sole source, like when you decide to give it to somebody when there is a relationship. CPO Bagby replied that in a sole source situation there is no choice because there is no other vendor who can do it, that is the point here. Sole Economically Feasible is a little different, but many of those also go to public notice with any comments and requests for hearings, there will be a hearing on it. He does understand that sometimes there are, like on sole economically feasible, there are differences of opinion there that will go into the mix of things to be looked at probably a lot harder than it would be now. Member Ivory commented that he agrees that at certain times we have a sole source contract that has been vetted properly, but being around for as long as he has, he has seen sole source contracts that someone else could have done this work and hope that when we take a look at sole sourcing that we have done the due diligence and make sure that this is the only qualified individual or company that can do that type of work. When we do that this process works very well. CPO Bagby wanted to point out that they are going to be putting into their sole source policy, which is being written up now. There is a provision that indicates about telling them about alternatives that you have considered. You will not see the names of the vendors, but the names of the vendors are in the file. We are going to require that each University that identifies those alternatives send a copy of the sole source notice to them because not all of those vendors are necessarily on the Bulletin. We want them to see exactly what the public sees and they will see the statement by the University that only Company A can do this. So Company B, which they looked at and were rejected, will have an opportunity to come back and say the University made an error and I can do it too. No further comments or questions were asked.

Next on the agenda was the Community College Qualifications Based Selection Study. Director Carter stated that the Board staff conducted a study of Junior Colleges qualifications based selections based on two items the Board requested. The frequency the community colleges select the same firm on numerous occasions to perform work and also at Board request the amount of minority participation in those selections. Director Carter stated that in both of those the Board staff found that community colleges do, not all but some, select the same firm over and over again. A lot of time they use them based on the satisfactory relationship. Staff also found based on the data they have that there is almost no minority participation. That is cross referenced over the BEP list so there may be some of these firms that qualify but don't register. A representative from the Capital Development Board is here to comment on the process itself, but keep in mind that a small amount of the projects contained within this study actually run through the Capital Development Board, but they are here to comment.

Member Ivory stated that he had a chance to talk to a college and is learning a lot in terms of the QBS process. He stated that it seems to be a consistent pattern that's what people use and it is easy to understand that. People get use to doing business with a certain person and it happens. The question is it is right, and is it good policy. Member Ivory can clearly state that it is bad policy and we need to take a serious look at what the junior colleges are doing and why there is no diversity to speak of based on the numbers he is looking at. Member Ivory would like to hear from the CDB in terms of why is that the case and is there anything that can be done to change it and what alternatives they might suggest to make this process better for all of us.

Don Broughton, Contracts Administrator for CDB, stated that CDB does have concerns and does take exception to that particular part of the local QBS Act that allows the colleges to pick firms based on a prior satisfactory relationship. That is not what the universities and CDB can do according to the State QBS Act. CDB though their Board Chairman and also the Board members and the Director within CDB, takes this situation very seriously and have concerns about that. CDB has been striving to increase the participation of minority and female business, not only as consultants but as prime contract holders. CDB has been conveying that message to the colleges in a number of different ways. When they bring forth recommendations to CDB based on their involvement where they manage certain number of projects that involve State money. The CDB Board has been very vocal to the colleges when they appear before the Board to explain their selection process and they can right now do what they do the way the local QBS Act is written, but we have been strongly encouraging them to follow the guidelines more along the lines of the State QBS Act and CDB also encourages minority and female business enterprise participation in that selection process. CDB has seen some of the colleges listen to them and some are looking to change their ways and others don't. The other way CDB has been addressing the situation is by going to the Illinois College Board and has met with them to express their concern and have also met with conferences being held by the Illinois Community Board for the CFO's of the colleges. The PPB has also expressed concerns as well. CDB is ratcheting up that message too that they don't want to see business done as usual and want to see it be done more openly with advertisement to everyone who is pre-qualified in the State of Illinois to work and we want to see more effort of inclusion of MB/FBE. The mission of CDB is not just inclusion on the teams as consultants, but also the opportunity as prime contract holders. Mr. Broughton stated that when he looked at some data since taking over as QBS Chairman in February 2009 they had 270 selections that they did for Architect and Engineering and 53 of 270, almost 20%, of those were for minority or female owned businesses as the prime contract holder.

Member Ivory stated that one of the things that he is concerned about after talking to a couple of Indian firms, black firms and Hispanic firms and asked if they were doing any business at all with the junior colleges and it was a resounding no. For a large portion they said to him that there was no legitimate opportunity and there was no reason to waste the time and energy because they felt it was a closed system. It is concerning when people stop bidding because they feel that there is not opportunity. That is a recipe that he thinks is not good for the great State of Illinois. The only way to change that is that you are going to have some different results that lend people to believe that there is a legitimate opportunity and more competition is healthier and always good. Member Ivory stated that we need to listen to people and listen to their comments and figure out if there is something that we can do to make the process better and more meaningful for everyone.

Acting Chairman Bedore stated that just going over some of these items like Illinois Eastern Community College had 193 projects and 189 went to one firm. You have Richland Community College they had 22 projects for \$2 million and 14 of them for \$1.6 million went to BLDD. Rock Valley College had 120 projects and 71 went to one firm. They spent \$4.9 million and this one firm got \$4.6 million. This is going with firms that you are familiar and friendly with, who maybe contributed to the local college, who knows. The numbers sure look like there is a problem and is not sure how to address this, but needs to be addressed. Mr. Broughton replied that CDB agrees with that and feels that it is a problem and when he looked at their code agency selections such as the firms you mentioned and take that into account. When looking at his data in the three and a half years CDB has not selected BLDD as a code agency project and they are a good engineering architectural firm and we recognize that, but when they have more than one firm that we are considering for a selection and if you look at the capabilities and both can do the project there is a lot of different things that CDB weighs. The way CDB has been addressing it now is to strongly put across the message at the Board meetings that CDB wants to see them voluntarily address this. Member Bedore asked if we need to have some type of legislation. It is great talking about it, but nothing is going to change until they are held accountable. Acting Chairman Bedore stated that he hoped working with the Board's staff and working with the attorney that CDB could come up with something that could be introduced in the spring session. The Board has talked about this, but talking about it what good does that do. Mr. Broughton stated that CDB has gotten to the point that they have tried to address that and it doesn't seem to be working and what is the next step. Acting Chairman Bedore thanked Mr. Broughton for his candor. Member Ivory stated that he would be happy to talk with the leader of the Senate and others once some legislation has been drafted he can do what he can to make sure that we get something done in this case. It is long overdue and we have spent many years talking about it. No further questions or comments were made.

Next on the agenda was Agency/University Emergency Procurement FY Totals. In attendance was IDOT CPO Bill Grunloh, CMS General Services CPO Matt Brown, Higher Education CPO Ben Bagby and filling in for CDB CPO Fred Hahn was CDB SPO Chris Flynn. Acting Chairman Bedore stated that last month the staff had presented an annual report to the Board showing all of the contracts and things that have gone on in the past year. While I was looking at it I was really confused and frustrated by looking at all the number of emergencies. So I had our staff pulled out the emergencies and so far this first quarter of this fiscal year we are at \$61 million dollars. Now just for a little reference I want to go back to the last full year under the previous administration of Mr. Blagojevich. He had \$32 million dollars of emergencies. This administration for the first quarter has \$61 million. We are almost double in the first quarter. The numbers...there were 85 emergencies under the Blagojevich year and in the first quarter this administration has 89. So I said well what are the reasons? Well 73% of last year's emergencies were expired contracts. So are they emergencies or are they just the lack of CMS and the CPO's and SPO's getting stuff through or are you just going to let that contract expire and then go "oh" we better get on this. So what are we at this quarter? Oh it is even better. Expired contracts this quarter under this administration is 83% of expired contracts and 52% of the total. It is a disgrace. Now we are at \$61 million, last year we were at \$100 million, and the year before \$123 million. Under Blagojevich we were at \$32 million. So first quarter and say you times it by 3 we are going to hit an all time high. You figure there are four quarters, one is down, and you multiply it by 3 it is \$184 million. If you multiply it by 4 for a whole year you get \$245 and the numbers were 85 and if we multiply it by 3 the 89 would be 267. My god we are going to make the Blagojevich administration look good. What should we do? Get those people back? I am going to give you an example of some of these contracts. It shows what the lack of foresight. You have DHS Substance Abuse Training. It is an extension of a contract that was let go. People forgot to file it so they got a 90-day extension and then another 90-day extension. Nobody knew we were going to have training for substance abuse? That you have done every year. I guess not. We got one here at IDOT for billboard advertising. It was not posted in a timely manner. They had a one year emergency. We didn't know we were going to have to re-do the billboards with the child safety or whatever the safety seats or whatever it happened to be. I guess it was a surprise. I will say this one my Chairman's not here, but before he became the head of CEO the Commerce and Economic they tried to go out sole source on a contract. They got an emergency because it was rejected as a sole source. Under the present contract that was in effect for the emergency for three months it was \$770,000. When they went out and bid it the whole year came back at \$602,000, yet we paid \$770,000 for three months under the emergency. Well we have health care and I can go on and on with every one of those. Now here is one that is under CMS for Bituminous mix. It expired and we asked for a 90-day extension emergency and then we ask for a 120-day extension. We buy this material every year why is this a surprise when the

contract expired that we didn't have one in place. How can that be? How can CMS sit there and let this happen. The bids finally got out to bid after 9 months. The bids were open 6-22-12 and this contract has still not been awarded.

Acting Chairman Bedore stated the Department of Juvenile Justice, a 90-day emergency and had three 90-day extensions and from the department it says the justification is this contract was allowed to expire due to staff vacancies. In other words CMS knew it was going to expire, but we are short of people and we will just get an emergency. There is another one for Department of Corrections, they went and got an emergency and solicited bids. The first emergency was in February. The emergency was for when there is lockdowns. When there is a lockdown in a prison, inmates don't leave their cells so they don't serve food on a metal tray, they serve it on a foam tray. They let the contract expire. I guess there was not going to be any more lock downs. They again went out to bid and open the bid in June. As of today it has not been awarded. I guess there is no emergency. Then there is I-Pass which was a 90-day emergency and then a 7 month extension. I don't understand a 90-day emergency and then a 7 month extension. IDOT has an expired contract for stone and had a 90-day emergency and then a 90-day extension. I guess it was a surprise and we have never had any road projects. There is another one for DOC for a 90-day emergency and then a 90-day extension due to an expired contract. No this one really surprised me. I guess the DOC doesn't realize that they have to give food and drinks to the inmates. This is for a solicitation for orange juice and grapefruit juice. They let the contract expire. There is another one for IDOT for pavement roller and road pavers. A 90-day emergency and a 5 month extension and there is still no solicitation posted by CMS as of yesterday. Acting Chairman Bedore stated that he saved the best for last from CMS. This is a four year contract that expired on June 30, 2012 for janitorial for the Michael A. Bilandic building in Chicago, the Supreme Court. They go a 90-day emergency then they are asking for another 90-day extension. Acting Chairman Bedore stated that he had to read this three times to fully comprehend because he couldn't believe what he saw for the reasoning behind this. It states "this company has been providing janitorial service at the Bilandic building under contract. This contract was entered into in 2008 and expired June 30, 2012. The maintenance company continued to provide services. At this point CMS was made aware the contract expiration. Due to the size, 455,000 square feet and complexity of this facility operation would be adversely impacted if we sourced a new vendor and they weren't capable of cleaning at the level that the ABC Company already provides. CMS decided that this firm is doing such a great job they will just let them stay on and not do anything. As of yesterday there is still no solicitation. The ABC Corporation who sells widget is doing a great job and they are selling millions of dollars to CMS. Their contract expires and then CMS can say they are doing such a great job and we don't think anyone else can do as good the ABC Company. So let's not put this out to bid. This is a front to all of us. CMS deciding that the Michael A. Bilandic building has a good janitorial service and even though their contract expired we are going to let them stay on, because we don't think anyone else can provide the janitorial service like this company. This is a disgrace. The only thing good I have to say about this is that with the level of emergencies that are going on there is one bright spot, which are the Universities. Higher Ed has gone from \$11 million to \$9 million and then to \$2 million. So CPO Bagby must be doing something good because that is the only bright spot in this whole thing. Acting Chairman Bedore stated that he would like to have these men sit down with the Board staff and with the Auditor General and come up with a plan because we can't go on like this. We are at \$61 million dollars in the first quarter. Under Blagojevich for the entire year was \$32 million. This is totally out of control. We have to come up with some legislation or maybe some training. Maybe there is a program that CMS can come up with that sets off fireworks 9 months before a contract expires. There has got to be something.

Member Ivory asked if there is a rational reason in terms of why this has escalated to the emergency procurement at this level. CPO Brown replied he would try to answer the best he can for general services. To give a little background on how the relationship of the agencies and the general services portfolio work upon one another. It as an elemental part of discussions for SB2958, which recently passed that added additional reforms to the Procurement Code. One of the discussions is who determines the need. CPO's recognize that the agencies determine need. They are responsible for identifying the prioritization of those things that service the agency, that service the State, that service the constituents of the State of Illinois. The CPO's office are the conveyers of the procurement process the applicable rules and regulations and transparencies and accountabilities necessary for open procurement to occur. In working through those nuances they rely heavily on the agencies to articulate what that need is and when that need is appropriate. It doesn't go without notice that they have these sorts of emergencies and their extensions. CPO Brown

stated that he chairs each and every emergency extension hearing and ask the same questions. He stated that he has a stock question that he asks in every hearing. What do you intend to do to remove the State from this exception decision process? How do you intend to plan for the appropriateness of these procurement activities? What are you including in your need? What are the deliverables? What are the administrative requirements? What are all of the other requirements that go with complying with the Code? All of those things should be brought to bear. For CPO purposes he wants to encourage timeliness and the tools that he uses to encourage that timeliness are not new and have been issuing them since near the inception of the independent CPO's having responsibility for some of these practices. CPO Brown stated that he is prepared to issue his third timeline letter, which he would be happy to re-issue at the Board pleasure and would include a preface to key activity dates, the establishment of targets for each step that they rely on in the procurement process for State purchasing determination forms, ask for weekly meetings and timelines to be established throughout the year by the agency, what the deliverables are, and when their contract expirations are ensuing. The CPO's office gives them a graphical clock that counts backwards how much time is left and when they start to incur risk and also provide them a calendar plot that they can rely on to chart each of these decisions. If the CPO's office sees that those requirements are not being met then they will push on them. He knows that it is not successful to date, but it is not for lack of trying. The CPO's office relies on the SPO's determination form, which can be filled out at anytime in a year.

Member Ivory wanted to know if anyone could explain why it has been a significant increase. Is it SB51? What is the rational? Is it the lack of staff? Member Ivory stated that he still hasn't heard from the leadership here in terms of what the problem is.

Malcolm Weems, Director of CMS replied he wants to look at the premise here is been that the only reason that we have emergency contracts is because of poor planning. He thinks that that does occur in all agencies at certain times, but there are a lot of other reasons why we have emergency contracts. Again, he doesn't want to understate the lack of staff in terms of not only what the CPO's have to do particularly with CPO Brown that I work with, but just the agencies in terms of having the staff but and we know that emergencies usually occur because of unexpected events when we talk about weather damage or something like that or real physical emergency we have those issues we have legal requirements change. We just talked about legislation that has passed in the Spring and there were legislative changes that changed the procurement process a bit. Process changes while we give direction as CMS to State agencies the CPO's office does notices. Director Weems stated that those changes are changes in the process to help us better deal with the number of procurements that come through the State. But sometimes the bid process itself doesn't even yield us any awardable vendors and therefore we have to keep services or whatever that agency is doing that has to continue. Most important for me, and I think that I want to make sure that I bring this to the forefront is that in terms of the Business Enterprise Program and the BEP Act, we know that we are trying to have a more inclusionary process with regard to diverse vendors. That is a culture change at the State of Illinois because we know that for a long time there have been categories in procurements that have not had BEP goals put on them. We at CMS are encouraging more goals on more procurements. That is what the BEP Act tells us to do. We view the BEP Act as a law just as important as SB51 or the Procurement Code and I have to add that the actual working process for agencies trying to actually get the things they need to do their job a lot of things come into play. The budget itself comes into play. When you don't have a budget that is not finalized until the end of one fiscal year the thing that you might have to do July 1 might not start until later because you don't even know if you are going to have the funding available. That does happen. The operations in State government do depend heavily on some decisions that are made at the last minute. We also know that the part of the idea SB51 was not to do business as usual. Director Weems thinks it is important that we have agencies look to maybe do things differently and when things have to be done differently sometimes, and I would think that the CPO's would agree with this, that we are not always experts in the latest way or best business practice and so we do RFI's and then RFP's to kind of get and bring people on board and that takes time. He would agree that our procurement process in it of itself on average for an RFP is a very long time and unfortunately some decisions are made and they don't have that kind of time to be implemented. So emergencies are necessary. Director Weems stated that he just wants to make sure that we bring into focus that not all of this is poor planning. All of this is not necessarily some dubious reason, but some of these things we are trying to actually do what is recommended by the law and do the right thing and I just want to make sure that this Board understands that.

Acting Chairman Bedore stated that he clearly understand that. Board staff has taken the weather and equipment failure out. What I am showing you and telling you is in 2012 73% of these emergencies where contract expirations and for the first quarter this year taking out weather and taking out lack of this and lack of that spot market purchase we took all that out and you are at 83% the first quarter of expired contracts. So don't...we are not mixing things up here. Director Weems replied that these things we are talking about did you take out Business Enterprise Program participation on contracts....Acting Chairman Bedore interrupted replying that the Director was talking about weather emergencies and that they were all taken out. Director Weems replied that was one he mentioned along with several others. He is saying that a contract will expire and there might be a procurement going at the time at the expiration of the contract. If you get to the end of a procurement process and there is no awardable vendor you are then required to re-bid and usually, which makes most sense, is to do an emergency with the current vendor so that services will still be provided to the State. Acting Chairman Bedore stated that the Board understands what an emergency is doing that you have to continue the service to give juice to the prisoners. He understands that, but why did it have to wait until after the contract expires to do anything. Acting Chairman Bedore asked for an answer on the bituminous mix from CMS. Director Weems replied that he is glad he asked about that one. He stated that this is exactly what we were talking about with regard to a Business Enterprise Program participation of vendors participating in contracts. We had vendors that did not respond properly to how the bid was put out and then we had a choice to make. Allowing vendors that were unresponsive to win a contract, which we all agree is the wrong thing to do, the wrong president to set, or have an emergency in place until we can re-bid and those are the choices that our agency are faced with all the time. It is not about poor planning it is about dealing with how vendors respond to procurements. Acting Chairman Bedore asked why did you wait until it expires before you put it out. Director Weems replied that CMS did not wait that is not how it happened. Acting Chairman Bedore asked why CMS waited 7 months, the bids where open in June and the contract has not been awarded yet. Director Weems replied that he heard him, but wanted to make sure that you are hearing me. Director Weems stated that this is what I am telling you that when CMS opened the bids and if they don't have an awardable vendor after opening those bids they have to start over. If you don't have a vendor in place you end up asking for an emergency. Acting Chairman Bedore replied that it took CMS 7 months to get the bids out. Director Weems replied again, what he is going to tell the Board is that in procurement in general, there is always things that happen during the procurement process that there may be surprises there may be unexpected things that come out. Again, anyone who has worked in procurement understand this, but to assume that somehow that CMS did not want to have the IDOT have a contract in place because somehow they just didn't care or didn't see it coming is not really a fair depiction of what happened. Director Weems stated that he agrees with the Acting Chairman, that there are situation where poor planning may be the culprit and we deal with that. He believes that the CPO's office is pretty tough on agencies about poor planning and trying to get us to do things early, but again, having the procurement process that sometimes takes 7 – 8 months sometimes a year I think in general is going to put you in a situation where you are going to have emergencies. Director Weems stated the he agrees with the Acting Chairman when you are talking about maybe CMS needs to change parts of process and shorten parts of the procurement process if possible, but to assume all of these problems are people in our agencies that don't want to do their job properly or are not planning and then to act that to be short staffed is kind of a side issue. He doesn't think that it is fair to the people that work here.

Member Morales commented would you agree that a majority of these emergency situation where expired contracts? Member Morales asked Director Weems to comment on the janitorial situation at the Bilandic building as well. Director Weems replied that he would have to check. He didn't have the numbers for the Bilandic building. Acting Chairman Bedore replied yes, to answer Member Morales' questions. The Board staff broke it down by percentages and CMS is at 83% this and was at 73% last year. Director Weems replied that he didn't understand what the 83% meant and asked if was based on contracts that have expired. Acting Chairman Bedore replied affirmatively. Director Weems stated that it goes back to his point that he is trying to make. Contacts expire while procurement decisions are being made and because of our process, which again, if you are talking about something that takes 7 or 8 months and you may have thought you could get it done in 4 which might be a reasonable amount of time the contract will expire while you are still trying to do a procurement. Again, the question would be to better illustrate what Member Bedore is getting at is how far out for these contracts that expired. How far out do we start a procurement? When do procurement conversations start about getting a contract in place? If you are saying they started 15 days from the contract ending that is poor planning, but if they started 2 or 3 months then we have a process

issue. That is the only thing he is trying to make sure that we differentiate between poor planning and their process being poor. Director Weems stated that he agrees that CMS needs to work and continue to work to improve the process.

Member Morales stated, correct me if I am wrong Acting Chairman Bedore, your point is not to say that the staff at CMS are not doing their job, your point is that we need to find out what the problem is and correct it. And Director Weems, your point is maybe that part of it is staffing and maybe part of it is the procedure process and that is what this Board is trying to determine. Correct Acting Chairman Bedore?

Acting Chairman Bedore replied that he is trying to determine why emergencies have gone up from \$32 million under the Blagojevich administration up to \$100 million dollars under this administration and \$61 million dollars in the first quarter. In the first quarter of this year we have more emergencies, almost double than what the previous administration had. It's like the IDOT contract for stone which took 7 months. This is not a super new product coming on the market. CMS has bought it for 100 years. So don't tell me it takes 7 months to get that and you still haven't awarded the contract. So almost a year later you haven't awarded the contract. Acting Chairman Bedore stated that he doesn't understand it. He can understand that if it was a high tech product, but it is not and I still would like to hear your answer. Acting Chairman Bedore stated that Director Weems hasn't answered Member Morales question about the Bilandic building. There CMS has determined that they have such a darn good contractor here we don't need to go out to bid. CMS let the contract expire and here is your words "if we sourced a new vendor and they aren't capable of cleaning at the level of this maintenance firm already provides". CMS is afraid to put it out to bid because we may get a better bid. This is a disgrace. Acting Chairman Bedore stated that this could never be justified. CMS is saying they have a good vendor and to just keep them on that they didn't need to go out to bid. That is contrary to everything in good government.

Director Weems replied that he wanted to make sure we are very clear here. When we talked about the bituminous mix we talk about how we have been buying it for 100 years. We have not been allowing diverse businesses to participate in that contractual opportunity. So therefore, we are doing something very different right now. CMS is making sure that diverse firms have a chance to participate. That is a change and that creates time and that creates people getting intimate with the process. As for the Bilandic...Acting Chairman Bedore asked why it took over a year. Director Weems replied that when there are vendors that do not respond to the procurement in the proper way, meaning that they don't provide U-plans or things of that nature, what will happen you will have an un-awardable procurement at that time if you don't have an awardable vendor and CMS will have to start over so that adds months of time to the procurement. That kind of stuff happens. It actually happens more often than we like, but CMS' hope that after vendors understand our process and understand the process better they will bid better and we won't end up in those situations. So, with that being said he does want to make sure that we, CMS, responds to your concerns about Bilandic.

Roger Nondorf, the Chief Administrative Officer for CMS stated that he just wanted to add one bit of information to the Bilandic discussion. There was an effort to shift the janitorial services at Bilandic to a State-use vendor and that State-use vendor through the process of understanding what the responsibilities would be withdrew. CMS has a State mandate on the State-use side and the effort was made and we have had great success utilizing State-use vendors in janitorial settings in other buildings, but as part of trying to implement that at Bilandic that vendor stepped away. That was the primary contributor to the need for an emergency contract. Acting Chairman Bedore wanted to read the response that you said... Director Weems interrupted stated that those were not his words. Acting Chairman Bedore asked what he meant that those weren't his words. Member Morales stated that Director Weems meant CMS. Acting Chairman Bedore asked if Mr. Nondorf and Director Weems represent CMS. Member Morales replied that they did and to continue. Acting Chairman Bedore stated that CMS wrote that they love this guy. He recited what was actually said "the facility would be adversely impacted if we sourced a new vendor and are not capable of cleaning at the present level". So CMS decided that nobody is going to do better than this vendor. In other words, take the Procurement Code and throw it out. So that the person that sells you widgets to IDOT is such a good guy CMS doesn't need to go out to be because he is good and he has supplied it every year to us. CMS is saying here that they don't need to go out that they would be adversely impacted if we put this out to bid. What nonsense is that? You can't get a janitorial firm in the city of Chicago with minority

participation. What world are you living in? Mr. Nondorf replied that they do not disagree that janitorial services could be awarded through State-use vendor. CMS tried to do that, it did not work. There is no way to contract janitorial services for the Bilandic building as a sole source. We are talking about emergency action to accommodate the immediate need to make sure the building continued to be cleaned while another vendor would be sought.

Director Weems stated that they will do that in conjunction with the CPO's office. He said it is not like they just made something up because we like the vendor. That suggestion just bothers him, but what he is trying to say is... Acting Chairman Bedore interrupted stating that CMS has not gone out for solicitation as of today. How can you answer that? CMS has not put this out; they haven't even drawn up the bids to go out. I don't understand it. The contract ended in June, today is the middle of October. CMS hasn't put anything out. So how long is it going to take you to get something out on the street, get it back to review and award the contract another 3, 4, 5 months? This will be over a year and you cannot justify this.

Member Morales asked if the plan was for it to go out to bid. Mr. Nondorf replied affirmatively. Member Morales asked when? Mr. Nondorf replied that he will get that answer today and supply it to Director Carter so he can supply it to the Board. Member Morales commented to Ed's point that to anyone who would read it outside of our circle may understand or they may not. The perception would be as what Acting Chairman Bedore indicated. Director Weems replied that he would like to see where that came from. He doesn't like the way it is worded either, but he would like to see what document and what person from CMS gave that to the Board.

Acting Chairman Bedore replied that it is the CMS typed response for the emergency justification. This is what CMS put down for why they need to have this emergency. People at CMS typed it. This is their explanation. If they sourced a new vendor and they are not capable of cleaning. What are they talking about? This was a four year contract and CMS knew when it was going to expire. Someone even had to back date the emergency because you didn't even know that contract expired. Acting Chairman Bedore stated that Director Weems can say whatever he wants and spin it any way he wants, it is not going to change.

Member Morales commented that CMS is going to let the Board know when it is going to be bid and it will be shortly, correct? Mr. Nondorf replied affirmatively. Acting Chairman Bedore stated that now CMS is changing their story and it is going out to bid? Mr. Nondorf replied that's the intension, but he just needs to clarify the timeline to see where they were in the process and would advise the Board. Member Morales asked if CMS kept track of the un-awardable contracts. Director Weems replied that he believes that they do. Member Morales asked if the Board could get a copy to compare and contrast that to what the Board has. Director Weems replied he would provide that to the Board. Director Weems stated that he would try to pull together any information to get a better understanding of what is happening.

CPO Matt Brown wanted to offer that they require in the CPO's office for in this area determination of unresponsiveness. They are done in writing and one doesn't want to disenfranchise vendors. They do everything in a documentable way and when they disqualify a vendor from a procurement or worse, suspend a vendor or debar a vendor. They maintain a very precise level of documentation on that and how that relates to the procurement. The CPO's office does keep records on rebids where they didn't award and subsequently rebid so we have general information to that.

Member Ivory stated that he knows the question he asked was related to procurement but I find that that you are in highway and the question I think Acting Chairman Bedore was talking about was CMS responsibility. So you may not need to respond to my question because it may not have been the appropriate question.

CPO Grunloh replied that he would like to respond just to clarify to the Board that in his jurisdiction it is highway related construction, that it is construction related. They have actually seen a reduction in FY11 IDOT had a total of \$1.9 million and in FY12 they had 10 emergencies totaling \$1.8 million. He can say none of them were a result of any inaction by any IDOT staff. They were all based on storm damage structure failures those types of things. The Board staff could re-enforce that and agree with it. CPO Grunloh stated that since taking over he changed the process to where the Code requires that you receive

competitive quotes to where it is practical and he would like to say that the department on the highway side has done an excellent job of that. They actually have an emergency on-going right now with a grid in western Illinois that is a lift bridge that is in the up position tied so barge traffic can get through. They solicited and put together a informal bid and think that they had 12 people interested in bidding on an emergency procurement. This is almost not emergency procurement but an informal IFB. The department has done very good in getting complete quotes. He just wanted to say that there is some of the things that Chairman Bedore were mentioning are IDOT related, but they deal more with master contracts, just defending my ground.

Member Ivory replied that the Board totally understands. Member Ivory wanted to make a few comments because he is in a unique position being on the BEP council also. He has some insight in reference to some of the inhering challenges that they have on the BEP council in terms of CMS and some of the things going through. He posed the question first of all when CMS sees a significant increase there is a reason and a rational for it. At least you want to find out what the rational for it and that is why he is posing the question to talk about why that is the case and how to fix it. Member Ivory thinks it is important from every perspective when we talk about inclusion and everything else there are some inhering challenges he is familiar with inside of the BEP council. That has, in some cases create some delay, and in some cases he has seen a number of contracts and have even talked to CPO Brown about. That seems to have some concern in terms of the participation not even the participation, but the wording that would preclude participation. He is familiar with that and just wanted to make sure that we have an opportunity Director Weems and to this council to make sure that we understand why we may be encountering some of inherent challenges in terms of emergency contracts and there are reasons and rational that I know that comes up where we have to do that, but thinks it is important to understand why it is being done.

Acting Chairman Bedore asked if there were any other comments. If not, he would strongly urge that CPO's, SPO's, CMS with their master contracts all sit down and try to come up with some rational and some way that we can prevent this an all time record year for emergency non bid contracts. CMS has gone from \$32 million under the last year under the past administration to \$61 million dollars the first quarter this year. There were 85 emergencies put through in 2008 as of the first quarter it's 89. CMS is on a record pace. They are going to win the gold medal. They are going to be over \$150, \$175 or \$200 million dollars. If everyone thinks that is acceptable then I am totally wrong. He doesn't think it is acceptable and there may be good reasons, but there has got to be a better way of streamlining this. Now I understand the minority participation in that, but still don't understand why it takes over a year. Maybe CMS is not doing a very good job of advertising and training and holding conferences with the suppliers and showing them what is needed. Acting Chairman Bedore would like to see a report next month if there is an objection from the Board Members. Member Morales are you ok with that? Member Morales replied that he is good with that. No further questions or comments were made.

The next scheduled meeting for the Procurement Policy Board is set for November 8, 2012 pending Board confirmation.

With no further business to discuss a motion to adjourn was made by Member Ivory and was seconded by Member Morales. The motion was unanimously approved.