



Chairman: Jay Stewart

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

### **Minutes – March 12, 2015 Meeting**

Present in Springfield: Jay Stewart  
Ed Bedore  
Bill Black  
Larry Ivory

Present in Chicago: Rick Morales

The Board started the meeting by confirming attendance at 10:00 a.m.

First item on the agenda was the approval of the Board meeting minutes from January 15, 2015. Member Bedore made a motion to accept the minutes as printed and Member Ivory seconded the motion. The motion was unanimously approved.

Chairman Stewart stated that we have some follow-up items, but are going to switch up the agenda a little bit because we have a guest here today. The new Acting Director of CMS, Mr. Tom Tyrrell has come here today so if you care to make any comments, the floor is yours for whatever purpose you wish. Mr. Tyrrell thanked Chairman Stewart and the Board for having him. Mr. Tyrrell stated that he is six weeks in and it looks like there's plenty to do. Chairman Stewart replied thank you, many State agencies come in front of the Board, but CMS is present through your staff every single meeting that he's aware of and Member Bedore has been on the Board for a long time, they have probably been at every single meeting of the Board and they probably have the most interaction with his agency. The Board enjoys working with the agency. They don't always see eye to eye, but continue to work together because everyone is just trying to do the best we can on the procurement side and thank you for coming here today Director.

Member Bedore stated that he would like to welcome Director Tyrrell here. One of the issues that he would really like to discuss at the next meeting would possibly be Veterans Affairs. He knows that it falls under the Veterans Affairs Program, but it is also run by CMS, so he thinks there is a real problem with this program. This program started in August 2011 and here we are today, 2015, and we're at 109 certified veteran's vendors. He just thinks that's totally, totally unacceptable. The Board keeps hearing excuses that they don't have the personnel to work on it, they don't have time, blah, blah, blah. The CPO had a program and he looked around and we found that it's totally lacking. One of the other members of this Board, Member Black talked to his Danville VA Hospital personnel they sent in and they don't know how this program works. Nobody seems to know how it works and he thinks it's a disgrace. There was a newspaper story that finally broke all this, and that's back in 2013. In 2013 they had 70 some people, now they have 109, man we made big progress in 2 years, we've signed up 30 more veterans in the State of Illinois, my god for an administration that touted itself as working with veterans this is really, really poor showing. Member Bedore stated that the legislation gave CMS and Veterans Affairs a dual responsibility here, so he hopes that Director Tyrrell will look into it. Member Bedore welcomes Director Tyrrell aboard and he appreciates your hard work that's going to be what you have to take on with CMS. Director Tyrrell replied that if it's okay he just wanted to take a second to respond. Director Tyrrell stated that he spent 26 years in the Marine Corps, so he's got an infinity for veterans. Member Bedore referred to Member Ivory. Member Ivory replied "hourah". Mr. Tyrrell stated that it goes back over a quarter of a century. Member Bedore stated that there are two Marines sitting

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up here also. Mr. Tyrrell stated that he also has a special emphasis on the Business Enterprise Program and has hired two assistant directors, one will be here in Springfield, he's on board, Markus Veile, and hopefully the Board will get a chance to meet him. He's a veteran of State Government on the Comptroller's side and will be very helpful negotiating the ramparts here for various aspects of State government. The other lady that is going to be in Chicago, he's not allowed to announce yet because she hasn't told her employer, but she represents an incredible capability and capacity and she also represents his executive team. They're going to add diversity to his executive team, so that they have all perspectives that they need to have when they undertake decisions and her primary task will be to work with Paul Cerpa to grow the BEP Program and the VA Program dynamically over the next twelve months. It's not an infinite time horizon. There will be metrics involved and one of those metrics will obviously be the certification of qualifying vendors, etc. So this is not something that is not on his radar and CMS will not be sitting here two years from now talking about adding 30 VA vendors. Also, they had a good year he thinks relative to past years in terms of our participation in MWBE, but again he thinks there is tremendous room for improvement there also and they will devote the necessary resources. The Board will not hear them saying that they don't have the resources to do their job, they will have the resources to do their job. This is something that is important to him and he won't talk about everything that you bring up like this, but this is one of the things that he intends to prioritize. Director Tyrrell asked if the Board had any more questions.

Member Bedore stated that Director Carter and himself talked about some legislation or something that would help in this area, Director Carter do you want to talk about that? Director Carter stated that he thinks there have been ideas that maybe the Department of Veterans Affairs get more involved, just because in the past administration this is really the BEP folks that were just trying to help out with veterans is the way it was. He thinks the Board may re-evaluate that with the efforts you plan on putting forth. That discussion was there and things have changed, are changing. Mr. Tyrrell stated that if this is something that the Board would like to hear more about, if you give them about 60 days or so they will be able to come back with a game plan about how they intend to proceed, so if that is something the Board is interested in let him know and he will add it to the agenda. Member Bedore stated that he is very interested, but he can't speak for the rest of the Board. Chairman Stewart stated that he thinks the Board will take him up on that offer. Let's say in two Board meetings from now if you could come back everyone would appreciate that. Member Bedore stated that if you look back over the Board meeting minutes there is about 6 Board meetings that they have talked about this program and we don't seem to be getting anywhere. There may be an improvement recently, but before that it's been pretty dismal and the excuse was that the person that was handling the program also had to do payroll, also had to do this, also had to do that, the person had about ten different duties. If this is an important program, which he believes it is, there should be a full-time person on this. Mr. Tyrrell replied that there won't be any doubt about the priority and he knows we're not in Missouri, but we will show you progress. Member Bedore stated that he always trusts a Marine. Chairman Stewart thanked Director Tyrrell. Chairman Stewart also wanted to added Member Morales to the roll.

The next item on the agenda was the follow-up items. Director Carter stated that there were just a couple items of follow up. The first one being the Board's rules, we are working with the Governor's Office to make sure they have a good feeling about what we're doing, again going back a couple months we're just looking at general clean up, overall clean-up things like FOIA processes and matching the Code. We allowed them a little extra time and thinks it was fair in transition people coming on. Director Carter stated that he hopes by the next meeting we will be able to say that we have talked and we are ready to go and we can send them for final drafting. So hopefully next meeting we will be ready to go. Chairman Stewart thanked Director Carter. Chairman Stewart stated that he knows that we had on the agenda the Veteran Owned Businesses, but he believes that the Board has discussed that already.

The next item on the agenda was the follow-up or re-visit of the ISU Lease #JR031809AA. Director Carter stated the Board had some concerns and asked that they look at it to see what they were going to do with their renewal as well as the potential build-out. He believes they're here to speak to how they plan on moving forward. In attendance from ISU was Debra Smitley, Senior Associate Vice President for Planning Finance and Facilities at Illinois State University and with her was David Gill, Director of Facilities Planning and Construction Management at Illinois State University who worked on the negotiations of the lease with the current building owners of the facility at Uptown Crossing. Ms. Smitley thanked to Board for the opportunity to visit with them again to discuss the University's continuing need to lease space and to answer any

questions the Board has regarding their proposed lease renewal for the Uptown Crossing space in Normal. Since appearing before the Board in January they have reconsidered their thoughts regarding the need to renovate a portion of that space. They have looked at that very carefully and not only themselves within the facilities arena, but also in conversation with the individuals who will be managing at the Research Center, which is one of the new focuses for that part of that space. They have concluded that they can use that space as it currently exists. The remodeling earlier that had been planned would have cost about \$600,000, which they thought was going to bring them some efficiency, they again have looked at that space and no longer plan to do any renovation. They have been in further negotiation and discussions with the owners of Uptown Crossing. They have left the per square footage amount the same and all other aspects or terms of that lease are the same. The renewal actually had the construction portion separate from the lease amount and so that is why the lease's square footage basis remains the same. Ms. Smitley stated that she and Mr. Gill would be happy to answer any questions you have regarding this proposed lease.

Member Bedore stated that he has some questions, One is the rate, and he realizes that it's not off the charts, but they're going from \$15.96 to \$20.00. That's a 27% increase at the end of the term. What is the normal rate in downtown Normal-Bloomington? Mr. Gill replied that they did a market research analysis study of the current rates in Normal and they found that to be within the range, which was anywhere from \$15.50 to \$17.00 a square foot. One of the things that is appropriate to mention for the first 5 years was the rate was kept the same, the \$15.96 was the same for 5 years, so before they undertook negotiation they did a research market study of the current market in Normal to find those rates. The initial offer that they came to us with was higher than what was negotiated. Member Bedore stated that you're saying the rates are \$15, \$16, \$17. Mr. Gill replied yes, triple net. Member Bedore stated that he knows that they can't look into the future, but they obviously did because you're going to give them \$20.27. Mr. Gill replied that those are all based on consumer pricing index increases so those are estimated rates. They estimate that they will save over \$150,000 over that initial offer that they gave us just on the lease rate over the 5 year... Member Bedore interjected stating that he doesn't care what their initial offer was to them. Member Bedore stated that the other question that he had really is that they have 4 conference rooms and 7 meeting rooms. You're talking about square footage of 31,000 and of that they have 11 meeting rooms. What are all the meetings about? Ms. Smitley replied that there are 4 larger conference rooms and those conference rooms, as well as actually the smaller meeting rooms are used not only by the occupants of Uptown Crossing, but also for meetings that are held by other offices throughout the University. Those are utilized quite highly, they are of a size, there are a few rooms on campus where they can accommodate that number of people, 29-30 on the 2 larger ones and then there are 4 larger, but 2 are larger than the others, the smaller are actually rooms that accommodate 3 people. If the Board recalls that predominantly those offices that are in Uptown Crossing are cubicle spaces and in those instances where there does need to be some confidential conversations with an individual they will move to one of the smaller meeting rooms. Member Bedore asked if their program is changing now. The nursing or whatever is moving out? Ms. Smitley replied that is correct. Member Bedore stated that if their program is changing then why do they need all these meeting rooms? Ms. Smitley replied that if the Board recalls there are a number of occupants in Uptown Crossing, the space vacated by College of Nursing faculty will be occupied by the individuals that are from the Research and Sponsored Programs area, Research Ethics and Compliance, and an area for faculty to collaborate on research grant proposals. Member Bedore asked if she could explain when they came to the Board last month and wanted \$600,000 worth of improvements and were only going to be there 5 years and the Board raised that as an issue and you obviously took that to heart and said, okay \$600,000 of taxpayer's money for 5 years probably doesn't work too well. So if you're not going to do these improvements, what's going to take place in those spaces now? Because you made a argument last month that you really needed these improvements in order for this program to work, now that you're not doing the improvements how is this program going to work? Ms. Smitley replied that what they talked about their thoughts in terms of the renovations were that what they could do is meet a couple of objectives. One, they could make that space that is being vacated more efficient for use for the Research Center and for Research Sponsored Programs and secondly that they could meet some other accommodations in terms of making that space more visible for a Research Center. So their plans in terms of the occupants in that space remain the same, its just the configuration of the space will be not as it was earlier envisioned with the renovation. Member Bedore stated that you're saying, getting back to the conference rooms, they have 4 conference rooms that will handle up to 30 people each? Ms. Smitley replied actually there are 2 that will accommodate that many people, is that correct Mr. Gill? Mr. Gill replied yes. Ms. Smitley stated that the other 2 are probably 15. Mr. Gill replied yes. Member Bedore asked if she is saying that all 4 conference

rooms in a day are fully occupied? Ms. Smitley replied that they are utilized quite heavily for everything from bid openings.... Member Bedore interjected asking what is quite heavily, is it 90%, 100%? Mr. Gill replied that he doesn't have the statistics in front of them. Those conference rooms that are shared between multiple suites and he thinks they have 7 or 8 different occupants suites within that and those conference rooms that are shared and one of their groups that uses those conference rooms is Purchasing, so they're often doing bid openings with contractors, and so forth. They have the need for bigger conference rooms, but also some of their occupants up on that second floor have not changed, they are static since the lease was initially signed and they are also using those conference rooms. They deliberately built those conference rooms centralized so that they didn't duplicate them in each one of those suites, with the purpose of trying to be more efficient. Mr. Gill stated that the College of Nursing that was referred to earlier is only about 3,000 square feet of the 30,000 square feet, so there's quite a few other occupants in that space. Member Bedore asked in Bloomington-Normal, have they done an RFP or RFQ or whatever to go out and see is there any other space available. Mr. Gill replied that they didn't do an RFQ, but one of his staff did conduct some research and polled all the real estate agents and collected the listings and compiled a research paper that was submitted with this application. Chairman Stewart asked if there were any other questions for the University from any other Board members, Member Morales anything from Chicago. Member Morales asked just for clarity, this is going to be a 5 year renewal, not 5 one-year renewals, correct? Ms. Smitley replied yes. No further questions or comments were made.

The next item on the agenda was CMS Facilities. Director Carter stated that Ms. Florence, Lease Administrator, from the Department of Central Management Services, is available to cover any facilities updates as well as a couple leases that are on the agenda. Ms. Florence stated that she didn't have anything for facilities specifically. Director Carter stated the first lease on the agenda is leases 3530 for DES .... Member Bedore interjected, getting back to the overall facilities, maybe next month the Board can have an update on our great Franklin Life Building and the State Police? What does that building look like now as far as occupancy? He doesn't think they have talked about this for a few months, just to see where we are at. Director Carter stated that the first lease is lease 3530, DES at 837 South Westmore-Meyer Road in Lomard. It's got a personnel square foot per person at 276 and a proposed square foot cost of \$7.34. This does require a Certificate of No Objection. Ms. Florence is available for questions. Member Bedore stated that there is really not much to say here, they've got Lombard and you're paying \$7.54, maybe the people up in Bloomington-Normal could look at this and say Lomard, Illinois, it is a pretty populous and a nice area of the State and we're paying \$7.54 and they're paying \$20, but the U of I, they have money, they always have money, so he has no objection to this lease at all. Chairman Stewart asked if any other members had any questions or comments on this particular lease or any other leases. Member Morales asked if the security system is in yet, or is it going to be installed soon? Ms. Florence replied yes it is in and operational and the security guard service has been terminated. Member Bedore made a motion that the Board approves this lease with a no objection, with Member Morales seconding the motion. The lease was unanimously approved and a Certificate of No Objection will be issued.

Director Carter stated that the next item on the agenda is lease 5506 for DES at 107 North 3<sup>rd</sup> Street in Quincy. It's got a personnel square foot per person of 255 and a year one square foot cost of \$12.14. This also requires a Certificate of No Objection and Ms. Florence is available for any questions. Chairman Stewart asked if any members have any questions or comments for Ms. Florence. Member Bedore asked if this is only a 5 year lease. Ms. Florence replied yes. Member Bedore stated again he'll point out to the people from Bloomington-Normal that you have a 2% increase over the life of this contract compared to what they decided what was going to be the increase in the future. Again, here we are in Quincy and this rate includes janitorial and everything else. This is all inclusive, so it's a very good rate, again he'll compare the \$12.00 all inclusive to the \$20.00 for Bloomington-Normal. He just thinks that U of I, they don't really seem to care about money. Chairman Stewart stated that he has one question and they may not know, does IDES anticipate acquiring additional workforce partner staff after July when new Federal WIOA rules are issued, or are they going to need more space or would this space accommodate whatever is needed in the future? Ms. Florence replied yes, this would accommodate whatever additional partners they may acquire. Chairman Stewart asked if any other Board members have any more questions or comments for this particular lease. Member Bedore made a motion that the Board issue a no objection to this lease, with Member Ivory seconding. The motion was unanimously approved and a Certification of No Objection will be issued.

The next item on the agenda was the Policy Discussion on Sole Source Procurement. Chief Procurement Officer Matt Brown is available to discuss this with the Board. Director Carter stated that in the way of background, CPO Brown and himself, as well as the other CPOs, they usually have pretty regular conversations on all of procurement as a whole, and a possible way to increase efficiencies and one of the ideas that CPO Brown has is to look at sole source procurements and the hearings that are required for this and what we see a lot of times is we have sole source procurements that may need a little extra time to complete and don't add any funding or if it does add some funding it is very minuscule compared to the original procurement. CPO Brown is here to discuss the topic and maybe cover some ground rules and some points on how to move forward with this.

Chairman Stewart stated that it was good to see CPO Brown again. CPO Brown thanked Chairman Stewart and the Members of the Board. CPO Brown stated that as Director Carter indicated, sole source procurements are a topic that has come up between the Board and the CPOs periodically. Just with a little bit more detail, each of the transactions that occur in the State, for any State agency, go through a vetting process with the Board so that it assists the Board's identification of policies for discussion and over a pretty significant period of time the subject of sole source has come up, about how do you modify them once they're under contract? How do you do so with appropriate transparency and accountability? We have answered a number of questions that the PPB staff has had on these subjects. Not too long ago Chairman Stewart made a mention to the CPOs about endeavoring to make the process easier, more streamlined where they could. This is in fact one of those areas where, while analyzing the subject together, he thinks that we can come up with some ideas for how to make some of their contracting activity a little easier to deal with. There are reasons to enter into a sole source contracts. One, it's the only vendor who can provide the service, legitimately there is no competition, so you find yourself at the mercy of that vendor and their offerings. There's a pretty intense process for entering into a new contract under a vendor like that. Likewise, there may be a single vendor who is available to the State, not for lack of competition, but for the price of availability of the State is able to work with. In some instances there is really only one affordable solution for the State of Illinois. That again, goes through the same intense process, the rigor of disclosure, public hearings, etc. Once they have entered into those contracts however, there are periodic reasons to modify those contracts. Our Procurement Code requires any contract change order, renewal, amendment, to again go through a process which is transparent, which is available for public inspection, accountable by way of signatures and authority, etc., but that is a significant process to go through. On some of these contracts the changes that they're contemplating, he doesn't want to say are insignificant, but they are not of large magnitude. They don't challenge us in the integrity of the transaction. For example, a sole source relationship that lasts 2 years and they need 3 more months to finish their work, no more pay, they just need 3 more months to finish the work. Under the law today it is conceivable that an entirely new sole source process would have to be engaged to give them 3 more months of time to finish their contractual obligation. He thinks that they can truncate that and thinks they can create and use the amendatory process allowed in the Code to grant that period of time. Likewise, there may be an opportunity to change the scope or specification of their relationship with that sole source contractor in a way that causes them to spend a little bit more money, and he says a little bit because his comments are about not just truncating the process, but saying there are limits to what you could amend your way to in this relationship. So right now we have a process for small purchases under \$50,000 and the Board has been a part of establishing that small purchase limit. It's conceivable that rather than having a sole source procurement you can do a second small purchase with that same vendor to get that add-on, CPO Brown stated that he is not sure if that is transparent enough. He doesn't think you want to consider a work-around opportunity. In lieu of that, a suggestion might be an amendment to a sole source, it is made public, it is on the Bulletins, it is seen by the Board, it is appropriately executed, it is seen by a State Purchasing Officer, but that amendment is limited at least amount to the under the small threshold. So you would only have that truncated process if it caused for no greater than \$50,000. If it were more than \$50,000 it should go through the entire sole source rigor all over again. It may not be a perfect threshold, but it is one that he thinks they can identify with if it is found in the Procurement Code and one that has the appropriate level of vetting through multiple parties. This is a suggestion that they put forward to say that there are more streamlined ways to make some of these changes, it's in one of their most complex areas, one that demands the most of their resources and is one that, at least in the General Services Portfolio, he has not found issue with. In the last four years when they have contemplated these kinds of changes, nothing that a full sole source process and a hearing would have proven what they didn't already know. So running those extra legs, and hitting those hurdles, didn't benefit them at all and that is four years worth of experience. So these are things that he would like to bring forward for the

Board to consider and they certainly don't want to do or suggest these things without limitation, how often can you do this, probably only once. You wouldn't want to amend your way through a sole source relationship four times. You're limited to one time as an opportunity to be effective. If you have to do it again, it's a new sole source process and the reason you do that is because it calls into question the legitimacy of being sole source in the first place, so the new process will bring forward all rigor that calls that into question and forces due diligence. CPO Brown stated that he wanted to provide that kind of information to the Board and suggest that these are some ways that they can tackle these challenges. Again, they have worked on numerous sole source transactions with the Board's staff, they ask a lot of questions and questions are important, they felt like this is one way through their experiences that we might better the process.

Chairman Stewart stated that putting aside the specifics of the concepts you put forward, whatever it is that you're proposing would have to be done through your office or your agent or your SPO's. In other words an agency, let's assume there is some agreed proposal, an agency is not going to be able to do it independently in the sense that they can just go do it. CPO Brown replied right. Chairman Stewart stated that it's going to have to essentially get the CPO to sign off, or someone on your staff to sign off before it could ever move forward. Mr. Brown replied that it would have to administered through the CPO's Office and it is likely, we're not sure yet, they haven't chased it all the way through, but it's possible that they would even need to change the administrative rules to ensure that it functions properly, so it might require rule making as well, which obviously the Board is a part of. Director Carter stated that CPO Brown and himself worked through a number of qualifications to allow to do this and it provides for adequate oversight, but he think it gives a potential to allow a great deal of efficiency for the agencies, but he thinks maybe the best way forward is if the Board seems open to the idea, CPO Brown and himself will reduce it to writing, bring it to the Board and the Board can go that way and maybe even as a way to more efficiently provide this as a process, maybe the Board could provide it as a policy recommendation or resolution going forward and that way CPO Brown and his staff and the other CPOs can move forward accordingly. Member Bedore stated that when you do this it would require legislation, wouldn't it? Mr. Brown replied it would not, and one of the reasons why it would not require legislation is because there are very few activities in the Procurement Code that are exclusive unto themselves. Procurement is a living thing so in a single procurement you may see them exercise 30% of the Procurement Code, because that is all that is required, or you may see them exercise 60% of the Procurement Code because it took that many steps or that many processes authorized under the law. So currently the law allows for these types of options, if it was an ordinary non-sole source contract they would just use an amendment or a change order. Theoretically, we can do that with a sole source, but we're not sure that is transparent enough. They think if they're going to do that with a sole source contract they would like some additional touch points to ensure that we're running the process in a way that instills confidence and integrity in the transaction. Member Bedore asked what they do now with the change for a sole source. Member Brown replied that they run them through like they were a new sole source, two week postings, stand-up hearings. They ask for the full measurement of the law to be applied and they have not had anyone in this space for time-only or for small dollar type changes, they have not had a single request to have a hearing, they've not found through that full process a reason to unwind one of those decisions or prohibit an agency, they just don't have the circumstances. Member Bedore asked if it is a burdensome process or why do you need a change? CPO Brown replied that he doesn't want to call it a burdensome process, but it's one of their most intense, sole source procurements as exceptional to competitive bidding are one of the procurements that brings in all the stakeholders. The Board for example, by law, prescribes the sole source form by which they justify the activity. So in a sense that this process is made, the Board is part of it because you help set the bar by which any sole source decision is justified. Nobody is looking to circumvent that, but to say it is a multi-page form, it is two parts, they publish one part of it, and they go through a mandatory public hearing notice period that they can wave off of. They wave off virtually all of them because no one requested the hearing, public, private, internal, Board, what have you, and then they have to follow up with the secondary posting that is the official sign-off. Again, this is a process that is designed in the law for sole source acquisition. At this point we're beyond sole source acquisition, we are really just trying to manage their relationship with their chosen vendor. So they think the law has provided them the latitude to this, in fact the change order provision, when you think about how they change contracts, is actually regulated by the Criminal Code not the Procurement Code so you have questions about, how do you legitimately change a contract without violating law and accruing criminal penalty? Change orders/amendments, how do you just on paper continue with your relationship with these contracted vendors? It is a very public process and so they want to do it in a

forthright way, but they also want to do it as efficiently as they can so people are focused on the business, not the bureaucracy.

Member Ivory stated that you have been the CPO for a number of years and he's curious in terms of sole source, which has been an area of interest for him for a number of years, have you seen in your experience per se, where CMS have done sole sourcing where it simply didn't make sense at all, where there was actually more competitors because he remembers a number of years ago that it seemed like there were a number of things that were sole source that he basically did not agree that should have been sole source? Have you encountered any of that over your tenure at this point? If you have he'd like to know, but if not he's just curious what his thinking was on that. CPO Brown replied that they have, in fact really the most predominant challenges that come from sole source, come from the public hearing and come from the CPO's perspective. So first of all from the CPO's perspective, every sole source request that comes through goes through a vetting process. They look at whether it's timely in duration, is it too long, generally speaking because sole sources are an exception to competition. He's not inclined to give sole sources that go beyond a year, there needs to be a very strong business case if they're going to go beyond a year. Not only do they look to contain them within a reasonable measure of why they need that vendor and not a competitively selected vendor, they also question each and every one of them, to say are you sure there is no competition? They actually turn them away from the sole source process and say no go compete. So the CPO's Office turns them away as a request and there is no sole source at that point. They also provide limitation on sole sources that seem to have proven up that at least of current they're a legitimate sole source, but we'll limit that. So you get this sole source for one year and under no circumstances are you getting another one. Whether or not the market brings competition or not, next year be prepared to bid because they're not confident that the market will remain that captive over the course of the year, so they're going to force it and have due diligence in the following year and set those through. Lastly is the public hearing process. When they have been required to hold public hearings for sole sources, on several occasions they have found enough evidence from the testimony and interrogatory at those hearings to deny sole source procurement requests and force them back to competition. So the answer is yes, Member Ivory, and that is the way they approach that. Member Ivory stated you made another comment about when a procurement happens and all of a sudden the procurement has to be extended and he thinks you said if he's not mistaken, that you basically or when the procurement comes out and all of a sudden the procurement stops and you now have to go to another process because of a short time duration or a certain amount of money. In construction you normally have issues where a procurement gets started and it should end at a certain time and it doesn't end at a certain time and then you have to go back through the process again as you stated. Is there anything that we do in terms of liquidated damages? He knows we do it in construction, he's just curious do we ever do that in procurement as a rule of thumb if a vendor does not meet his requirements within a time frame, are there consequences because it's going to cost us to put it back out for procurement again, take time, energy and resources? CPO Brown replied he will try to give him what he thinks is the best answer that may create more discussion or some follow-up later. The State does rely on performance bonds and liquidated damages in a number of its contracts. He believes they don't do that often enough and they should do more of it and they should be more precise in their utilization of it and once they apply that as a procurement practice they shouldn't be afraid to exercise it. Now that being said, where recently, he guesses he could say for most of the tenure he has had as CPO, some of that has been a challenge in part because of slow pay, where they have vendors that say, hey you're driving me out of business and you want to cash in my bond, how am I supposed to serve you, not get paid and operate under threat of my bond being liquidated? You're going to run me out of business. When they hear that, that's pretty compelling to understand the challenges that their vendors have, and when they do have liquidated damages or performance bond issues they have to ensure that it is entirely on the back of the vendor. In no way can the State be culpable in the delay or whatever may have occurred in the relationship. If CMS changes the scope, if they make an action and through aggressive determination on the State's part, try to continue to hold that vendor or get more performance out of them as originally agreed. Their ability to actually rely on that, should they come up short at the end, is lessened significantly. So they have to be very careful how they've worked through administration of the contract, in order to actually apply to use the liquidated damages or performance bonds, but again they should use them, they should use more of them, and they should be very precise with them. Chairman Stewart asked if there were any more questions or comments.

Member Bedore asked if they are going to present a detailed layout of what you're proposing. CPO Brown replied that he'll be happy to give the Board, as Director Carter stated, they will be happy to reduce this into writing in a way that gives the Board something to analyze. One of things that they look at periodically is as their process to scale is, okay what have we built, can we break it? They share that with other folks and want to make sure they've gotten it right and that it serves the State and the public interest. Member Bedore stated that whatever they do, we have to make sure that there is light on it. CPO Brown replied absolutely. Chairman Stewart thanked CPO Brown and thinks the Board will follow-up. They'll explore it, maybe if there is something, if not but they can take a look at it. CPO Brown replied that he appreciates the opportunity to have this issue evaluated to the Member's level and the dialogue he thinks it deserves.

Next item on the agenda was legislation. Director Carter stated that there are about 25 to 30 bills and doesn't think there is anything overly offensive, but wants to touch on a couple today. First is the passage of House Joint Resolution 17, which changed the name of the Stony Creek Bridge to honor our distinguished Member Bill Black. That has passed so it has been changed and he thought we could congratulate him on that. Member Black replied thank you very much. Member Black stated that he noticed that it is a one-way bridge out of town, but whatever. Director Carter stated that the other bill he thinks is important to some of the Board, and is important to all of us as a whole, because the process changes. Currently, the Capital Development Board (CDB) has the ability to utilize Single Prime as a construction method under a pilot, that pilot is expiring June 30, 2015. A couple of things under the pilot that are important, all projects are approved by this Board. Only projects over \$15 million and no more than \$200 million annually in projects are allowed under it. It's important that this bill as put forth, HB3497, removes all of those qualifications, removes any caps, removes any authority by this Board to approve it, and it makes it a permanent construction method. This will be the method that is used and he can say from experience if there is concern with Single Prime, this will be the sole method that will be used going forward by the Capital Development Board, there will be no more Multi-Prime. Furthermore, this bill doesn't include the Universities. Director Carter stated that he has had a meeting with them and encouraged CDB to include that process to be available to the Universities as well, more so because we are going to be limited to the number of capital funds that are going to be available. As you know, there was a project that was slated to be on the agenda today and it was removed. That project was a \$100 million, that is one project. So the ability for the Universities to have this construction method allows much more funding sources that are available. Additionally, the response to the removal of the Boards project approval authority was that the Board still has their 30 day review. It is important that he stresses to the members that their 30 day review is in no way the approval that they did have under the pilot. Before, CDB had to come here and request approval from the Board and the Board voted, without that affirmative vote the project didn't go forward. That will not in the least bit be the case underneath the new bill. Director Carter stated that he knows some of the Board Members find this particularly important and he knows the trades find this particularly offensive. He would not say that he is under that same classification, but it is a pretty important bill and makes some pretty big changes for our trades and for a lot of people. So he wanted to give some specific attention to that and thinks it is an important bill. Most of the other bills are small changes, but that's a big deal. If the Board Members have time to research it and have specific concerns he could work that with the caucuses.

Member Ivory stated that he would say that it is a very important bill to him and to a host of constituents because they have talked to a lot of primes and have been in meetings with the Capital Development Board and a lot of the prime contractors like Single Prime contracting and he thinks he asked some time ago about what is the impact on minority participation with Single Prime versus Multiple Prime and thinks that it came back as that there was no distinguishable difference between the two, but when he talked to the industry and talked to our members across the State there seems to be real concern that a Single Prime contractor will basically minimize participation. Director Carter interjected stating that he has heard that as well and he would make this point, CDB will still meet BEP goals, but he thinks what you will find is that they will meet goals routinely with a smaller group of vendors. So, say if your group's interest was that we grow business as a whole and not just vendor A, then you look at Single Prime and say, you know are they going to honor the system and then we find different things. He thinks they will say yes, but Member Ivory you are an expert when you talk to your constituents. Director Carter stated that those are the things that he asked and it goes back to the fact that they removed the Board's authority to approve and left us with a 30 day review only. Say the Board finds an issue with how it is going, you have a big issue sitting on the Board and the Board can review it until we are blue in the face, but that is the difference, in the pilot the Board could stop it. Member



Ivory stated that it is a big issue to him and is researching it across the State to examine what the impact will be or won't be, in terms of people across the State from the Hispanic community to the African American community and they have some legitimate concerns about it. He is looking at it closely and thinks he will have an official opinion from his organization, in terms of what they think it will do and won't do. Director Carter stated that things move fast. Member Ivory asked if the Board has talked to the CPO about this issue. Director Carter replied that CPO Hahn is available, but he has had some discussions with him and he might be able to shine some light on Single Prime if you would like. Member Ivory stated that he would like to hear from him on that.

Fred Hahn, Chief Procurement Officer for the Capital Development Board stated that he has had some discussions with Director Carter over the course of the last several days and he too shares Member Ivory's concerns. Mr. Hahn stated that he doesn't have any specific basis for that other than he doesn't know that it has been well looked into, in terms of what those consequences may be. He does know that two of the larger Single Prime projects that CDB did, there were MBFB problems and in particular the vendors of those two projects face some criminal actions and are paying large fines. It doesn't necessarily condemn the Single Prime process, but one has to wonder what happened in that process that changed that those events occurred and he thinks it's a concern. Member Ivory stated that it lends itself to, in some cases to pass-throughs, and that is why they had the fines in reference to that. Mr. Hahn replied that is some of it. As Director Carter mentioned one of the projects that was under consideration recently by the Board was the U of I Chemistry Building which was \$100 million. Something that he has asked CDB is, and as the Board knows is that CDB requires that vendors be pre-qualified in order to perform on the projects and how many vendors can put forth a \$100 million bond on a single project? There is probably less than a handful. So there is some concern too about what this might do to competition. Now obviously you could create a program in Single Prime where by the trade, subs, electricians, plumbers, etc., provided their own bonds and their total of bonds and not just one contractor providing the bonds, that discussion hasn't been had either or the processes into that. What exactly are we doing is something that needs to be discussed with respect to that legislation. Chairman Stewart asked if there were any other questions or comments for CPO Hahn.

Member Black asked what the genesis of this bill is. Where did it come from? Did it come from CDB? CPO Hahn replied that he believes it did. Multi-Prime has been there forever. It was probably a decade or so ago when Section 30-30 of the Code specifies the Multi-Prime vendor method was tweaked to allow Single Prime for he believes the first project as kind of a pilot was the Capital HVAC. IEMA Security Operation Center followed closely on it, but typically as Section 30-30 was amended it was project specific, it was probably four or so years ago that it was amended to allow, as Director Carter alluded to, that any Single Prime that was over, at the time \$20 million, but now \$15 million and initially it was \$100 million, is now \$200 million threshold. This is a further effort to re-establish or to establish total Single Prime and he believes it is a CDB effort. Member Ivory stated that his biggest concern on Single Prime is one, it reduces competition obviously because if you don't have the bonding capacity then only a number of people will play at that level. With Multi-Primes you have a number of different opportunities and once you have a Single Prime and you win those contracts you tend to pick the same people, whether it is plumbing or electrician, you tend to pick the same people and that may have an adverse impact upon minority participation from his perception. Like he said, he is looking at it and talking to the industry across the board, but at this point in time we have some legitimate concerns about competition and how it perhaps limits competition and it also takes away the Board's authority at the same time. In the event that we give that away, we can't get it back once you give it away and he thinks that the Board should have some oversight continuously on this and allow the Board to weigh in if they need to, but if they want to come before the Board and ask for Single Prime again, it makes sense to have a little more history behind it, but he thinks the Board should officially respond, from his perspective. There might not be shared vision of this Board, but we should have some objection to it at this point.

Member Bedore stated that by going down from \$20 to \$15 million, how many more projects will that open up? Director Carter replied that two years ago is when they went from \$20 million down to \$15 million. This bill would put the threshold at zero on all projects no matter the size can be Single Prime. Member Bedore asked how many projects CDB has in a year roughly. CPO Hahn replied approximately 200. The options for Single Prime are about 10 to 20. They are usually the larger projects. He doesn't have off the top of his head how many are over or under a \$1 million, but most of them are under a \$1 million. Member Bedore asked that

if a project was \$2 million, would they do that Single Prime. CPO Hahn replied that he didn't think they would or where they would contemplate drawing the line, but he would generally say \$10 million is from discussions that he has had is where they might draw the line. Member Bedore stated that if that is the case then why are they going down to zero? CPO Hahn replied that it is not his legislation, but that is part of the discussion that needs to be had, what exactly are they trying to achieve that makes things better from everything being Single Prime versus what they have now with limited, if you will Single Prime. He doesn't really get that information from CDB.

Director Carter stated that one of the things that he said when they brought this to himself and Will Blount is that he knows that a case can be made for Single Prime. A lot of states use it, a lot of states love it, but if it is so great then leave the Board's authority in over a certain threshold and they didn't like that idea. Member Bedore stated that the point that he is trying to make is that if you think that you are not going to be using it down to \$1 million or \$2 million then why did they go down to zero? You are opening yourself up to possibly, doing a lot more Single Prime and he doesn't know if it is a benefit to the State of Illinois or to its various vendors. Director Carter asked what CPO Hahn's rationale was for not using it that low. He got a different opinion from them speaking to them. Is there some technical reason on why they would not use it that low, the process? CPO Hahn replied that he doesn't really know, he didn't get any detailed explanation from them. Director Carter stated that neither did he, but he just got the sense that it would be carte blanche CPO Hahn replied yeah, it works on bigger projects, but presumably works even better on smaller projects.

Member Ivory stated that the other question that surfaces is that one of the inherent challenges across the construction industry across the whole country is creating competition and growing minority capacity. If big firms are always competing for even small opportunities then you wonder, because you can't compete with a large firm who has the ability to buy the pricing, the equipment, and all of the other factors, if you open this up to that extent he thinks that what you'll see is a negative impact upon participation and you'll see a lack of capacity when we are struggling already on the numbers across the board. We have done a Disparity Study that clearly points out that we are not hitting the goal. The State invested an enormous amount of money for this Disparity Study it shows over utilization, under utilization and you don't see minorities acting as prime. When you have Single Prime contracting it is clear it is designed for the big boys and you reduce the ability if you don't have the bonding capacity for \$50 or \$100 million for a Multiple Prime you do at least have an opportunity and you do have some ability to have greater diversity. He thinks he is a little concerned about it on the surface but we are looking at it, but he is concerned about this particular issue and he will talk with the Capital Development Board too.

Chairman Stewart asked if there were any further matters. At this point in time is there a motion to adjourn. Member Black made a motion to adjourn, Member Ivory interjected asking to put a motion forward to object, for the Board not to do so he thinks would be...at least he wants to ask for a motion to object to this. Member Bedore seconded Member Ivory's motion. Member Bedore stated that the Board would object to what, we need to be a little more specific. Director Carter stated that the motion to object would be more that the Procurement Policy Board is an opponent of that legislation. Director Carter did a roll call for the vote with Member Black stating that he didn't know enough about this legislation to be opposed, he might later, but right now his brother is in the heating and air conditioning business and likes the idea, so he is going to vote no. Member Bedore, Member Ivory, Member Morales and Chairman Stewart all voted yes, the motion was approved with a 4-1 vote and the Board will be an opponent to this legislation. Member Bedore stated that there are a number of issues, Member Bedore stated that Member Ivory has pointed out the minority end of it, but it also goes to the issue of going down to zero, which bothers him a little. They are saying that they wouldn't be using it and wouldn't go down that low, but you will have that authority and once you have that authority maybe you will, and the other is really taking the Procurement Policy Board out of the process. Member Ivory stated that it isn't really just about minorities, what you are doing with Single Prime is you're giving an advantage to larger contractors and you are even effecting other firms who may have the bonding capacity of \$20 million, but they are not going to be able to bond for \$50 million or \$100 million. You will fundamentally take them out of play and you will simply have a greater monopoly where more people competing and getting more contracts and opportunities and it is something that may have adverse impact upon everyone if we are not careful. Member Black stated that he wants the record to reflect that since he referenced his brother's business, that was started by his grandfather about 70 years ago, that he has no financial interest in that business whatsoever, he owns no stock, he is not an officer of that business, he

learned a long time ago that one brother can run a business successfully, two brothers often cannot. So, that is his business not mine.

With no further business to discuss a motion to adjourn was made by Member Black and was seconded by Member Bedore.