



Chairman: Frank J. Vala
Members: Ed Bedore, Bill Black, Larry Ivory, Ricardo Morales

Minutes – October 16, 2018

Present in Springfield: Frank Vala
Larry Ivory
Ed Bedore

Via Telephone: Rick Morales

Chairman Vala called the October meeting of the Procurement Policy Board to order.

Member Bedore made a motion to allow Member Morales to participate by via telephone. Member Ivory seconded the motion all members voting “aye” and the motion carries. Member Bedore made a motion to accept the meeting minutes as presented. Member Ivory seconded the motion all members voting “aye” and the motion carries.

Next on the agenda was the emergency administrative rules for CDB. Director Von Behren states at the end of the General Assembly session they passed a statue exempting the large portion of the procurement code for CDB for the construction that needs to be done at the Quincy Veteran’s Home. Part of that statue required CBD to promulgate administrative rules for how they’re going to handle this progress. These are the rules that they are presenting to JCAR and are in front of the Board today, and CDB is seeking a certificate of no objection.

Amy Romano General Counsel for the CDB and Don Broughton Administrator of Contracts for the CDB were present. Ms. Romano says the rules before you are very limited, and scope application in time. These are rules that only be applied to Construction Projects at the Quincy Veterans Home. No other Veteran’s home can utilize these rules for any other construction projects. It’s also limited in time by statute. The lift of the Procurement Code is only in effect for 3 years I believe, and these rules by statue would be in effect for 5 years. There is a little disconnect that probably needs to be fixed down the road. We don’t see how you can have a 3 year and a 5-year time frame on those two things currently they will have to be fixed in the future.

A little back ground on the drafting that we started by using CDB old administrative rules. Some examples are several of the definitions have a lot of language that come from the Procurement Code, and the Procurement Code has a set-aside program for Veteran’s small Business that we thought was particular to maintain here. We spend a lot of time working with our CPO Art Moore on how to roll this out. We have also worked with Mr. von Behren on how to roll out this process. We have worked with Veteran’s Affairs, Executive Ethnic’s Commission, and also the Comptroller’s office because the Procurement Code touches a lot of different agencies. We were

trying to work with all of them to make sure we were still maintaining their rules, and duties throughout this process. We did file for an emergency rule making, September 18th is when it was expected by JCAR we concurrently filed for regular rule making and non-emergency rule making that's been published in the Illinois Register October 5th so the 45- day comment period is ongoing. Were here to answer any questions, thanks for your consideration.

Member Bedore said one comment he wants to follow up on, it says that the selection committee Public Members that is a member is a residence of the Quincy home, and one Public Member who is a resident of Quincy. Who names these people? Ms. Romano replies that's something that were working through the process that was a requirement in statue that the particular section of CDB design-built act was amended for these projects to have residence of the city of Quincy. Member Bedore states he doesn't have a problem with it he just wanted to know who would appoint them. Mr. Broughton replies the current act has in there where the selection committee involves a member of the design, or construction committee, and then a member of the minority association. When this was put together that wasn't carried over Legislation instead it had a Member of the Committee, and a resident of Quincy. So that's where the Design Build Act, and the Selection Committee is a little different. So, to answer your question about who would make that decision, our QBS administrator Brett Lance who does all of our QBS selections and also deals with Design build selection. He will reach out to different committee organizations, and also reach out to Quincy's Veteran's home to get recommendations as he has done in the past.

Member Bedore asks, so he will contact the Quincy Veteran's home? Mr. Broughton says it's a process that he does he reaches out to explain to them, when they get involved, time restraints and what they need to do to seek out in that and take a look at the names and from there make a decision. Ms. Romano says to follow up on that the partners of Partner of Veteran's Affairs staff is already committed to work with us for that piece of Quincy's Veteran's home.

Chairman Vala asks will that selection Committee include minority, women business, Veterans will they have some input on this, will they be on the Committee? Mr. Broughton replies the way the committee is set up and based on the Legislation that was passed is that there will be CBD Staff like there is normally is at which there is a Member from our fair employment practice unit that represents the concerns, and the conclusion of Minority Business, and Veterans and then the two public Members by the way the act is put together would be a resident of the Veteran's home.

Chairman Vala states that he doesn't consider a Member of the Veteran's Home, of being a representative of the Veteran's that work there, that is a Client that we are serving in the Veteran's home. Where is the coordination to make sure that these other Veteran's and minorities and women owned businesses have an opportunity there for them to have some input?

Mr. Broughton replies and what we're talking about here specifically is with the design build project. So, the large building replacement that they contemplated the largest project of all the sight is expected to be a designed building. Mr. Broughton says when the Legislation was passed the makeup of the Members was changed and the Legislation was passed so we have to work with that. But the one thing that was important to us was that we preserved the Minority and Women Business participation that's in the BEP Act and that was not affected by the Quincy

Act. So, it was very important to us to make sure we included them in our rules because if we didn't then that would have been an oversight basically forgotten about, but we still had that in our rules, that were going to do the Veteran's goal just like we do now. Ms. Romano says the minority, and female goals will remain intact and the BEP was not at all impacted by this Legislation.

Member Bedore asks about section 930-320 Minority Women and Veteran's participation. There is one word in this whole paragraph that bothers me. CDB may establish set a side goals for qualified Veteran's owned small business. Member Bedore says that he would like to see something on the lines of shall. Mr. Broughton states the reason why it's written like that is, when we have very small projects something that might be \$20,000 or it might be something specialized, where there would only be one trade. There is not that opportunity on those small projects to have sub contracts and suppliers to meet the goals. Member Bedore says aren't you setting the goal for overall? Mr. Broughton says what happens on the projects that are larger to where we have the ability to carve out pieces for sub-contractors and suppliers then the goal is a little bit higher overall. Currently at CDB the threshold in applying goals, small goals but the general rule is a \$250,000 project. Member Bedore asks what is the overall estimated cost for this whole project? Mr. Broughton says right now he believes that its \$230 million on the large building. I know that there had been concerns with regard to the emergency projects but what we did at CDB was we put goals on that emergency, and those goals are being meant. I guess it's a pat on our back. it's been our policy not to put goals on an emergency project, but we chose to do that here. so, were trying to address the concerns. But again, when you have those very specialized very small projects, it's very practical if the vendor you have is the only one that could be possible working that before doing any work.

Member Bedore says you were aware there was an Armory years ago. I talked about it should be almost 100% Veteran's this is a Quincy Soldier's Home. Is there some way we could tighten this up a little? The small projects you wouldn't specialized but overall your talking \$230 million, that's a pretty nice size project. Ms. Romano says on 4 pieces of the larger project we have assessed goals. Member Bedore says what goals have you set for the Veterans? Ms. Amy says I think for the bridging firm so far, the contract that was selected the contract is still under negotiation if I understand correctly, has brought in a Minority goal of 17% and Female Goal of 4% and a Veteran goal of 5% is expected to be used for the bridging firm on that particular project. I think the overall goal was 20% and if my math is correct that 21%. Mr. Broughton says there was a 20% combined with 5% on the Veteran's which the Legislation is 3% but we put 5% on there. We feel like we're doing what were supposed to be doing with this program to make it work.

Chairman Vala states that his concern is were not building a Veteran's home were building a City. It's not going to the \$200 million it's going to be much more than that, and this is one opportunity for this Procurement Board to finally set down rules that somebody is going to have to explain why they didn't follow. I strongly believe that section 934320 should say must and not may. Member Bedore asks is there some way that it can be worded somehow where you have your specialized contract for a product, that you know is only coming from ABC Corporation and its not a Veteran's. Is there a way to word it that these goals must be met? I think this Board has been talking about this Veteran's issue for some years. I remember when we were talking to

Senator Duckworth when she did the Veteran's thing. So, this goes back many years. This is not something that just popped up with this Board, and the concern of this Board. It just bothers me to see the word may. I think the Chairman has come up with must.

Mr. Broughton says he understands that you're looking for a little more teeth. But to have the ability it's feasible. Member Bedore says I'm not arguing you done a good job. It's just who's going to be here six months, or five years from now. this is a long-term project. While you have good intentions in what your saying is straight, but the next person might say hell no. We don't want to do this, and with the word may, they could say we decided not to do it. Mr. Broughton says the rules are under JCAR consideration which allows them to be changed. So, we think that we can do a little bit of re-wording there. Because our intent when we first put this thing together, was the main intent of anything was to make sure that we preserved the Veteran's Program because it was in the Procurement Code and when you say were exempt from the Procurement Code for these projects and if we didn't include those in the rules, then there wouldn't be a requirement. So, we understand, and we agree with your assessment that there needs to be a little more teeth into it.

Member Ivory stated from my experience with not only the PPB but also in BEP Counsel, we had a heavy conversation on the language of "may" and may is so objective and leaves so much room for us to have a debate. Let's remove that and put shall, and that way you always get a chance to come back and say under these circumstances we exempt this Procurement based upon size. Mr. Broughton says I think we can make this work and address your concerns. Member Ivory asks when you select someone from the Veteran's home and you also select someone fomr the community for the Committee, do you guys look at their background to see if they have any other pervious Construction or background experience, so they can be a more informed participant not just a Committee person with a little bit of background about who is selected. Mr. Broughton replies, yes that is a challenge that were taken very seriously after those recommendations to come us that those people have some type of background. Member Ivory says a facility that is going to build, and obviously it impacts Veterans and the highest priority should be to have Veteran's participation, we appreciate that you guys have went from 3% to 5%. I was a part of the selection team that that helped established the 3% goal years ago. we thought it was low glad to see you guys are going beyond that with 5%. Ms. Romano says that this has been on our radar a bit. With Quincy it's been a challenge sometimes to achieve the goals that you have established. Mr. Martinez is looking very hard to try and get some additional support outreach so that we can support the goals that are put on the projects in that particular location.

Member Morales thanks the Board for topics and points that they touched, I had the same concerned with 930.2320 concerned with the word may. Those were the concerns that I had Executive Director says we will postpone the vote today to have this section rew roked and CDB can come back to the next meeting to present the changes.

Next on the agenda we have the proposed Administrative Rules for the CPO for Higher Education. We have Shirley Webb and Margaret van Dijk. Ms. van Dijk stated that The CPO of Higher Education has filed a proposed amendment to administrative rules which will incorporate all of the Legislative changes made in 100th General Assembly as well as a couple from the 99th

General Assembly. We last did a major update of the Administrative Rules in January 2016. We did increase the small purchase threshold in September of 2016, but this will incorporate changes made in 26 different Public Acts. We worked extensively with the Universities on these, we been actually working on these administrative rules since last summer. We have provided an initial draft to the Universities in November of last year as well as March of this year, and when we got the pre-draft back from JCAR that was at the end of July. We decided to wait the additional months, so we could incorporate any additional Legislative changes on basis any acts signed by Governor.

I can give you some of the highlights we add back in the exemptions for Institutions of Higher Education. We establish rules for an evaluation committee, confidentiality during the evaluation process, and how to address potential conflict of interest by committee members. We provided guidance for opening bids, or proposals, how State witness conduct their behavior, and consider opinions, and alternatives for scoring purchasing. We put in requirement for small purchases. Requirements for purchases over \$20,000 at minimum Universities contact 3 different Vendors and have those contacts be in writing and they promote small and diverse business, and that all that information be contained in a Procurement file. We make a variety of statutory changes that's related to State Use, as well as Hub Zones, again the joint cooperative group. Specifically, an item that CPO Bagby is aware that this Committee is very interested in relates to BEP People, and Veterans Goals and there are 2 specific additions made to these administrative rules. They try to promote and encourage the use of BEP and Veterans Own Business. With that we are available to answer questions.

Chairman Vala says he appreciates the input parameters that you established. But speaking for myself and hopefully for the Board, we have not had a good relationship with the Universities bidding I don't believe that there has been one project before use that hasn't been multiple questions, and most of them unanswered, a misunderstanding of what you call tax money, and what was called University money to make expenditures. So, I really think that Mr. Bagby ought to be here for us to continue with the questions. Ms. van Dijk replies let me give a particular response to that issue in terms of one of the rules that we have done that I think tries to address some of those concerns. So, in the Procurement Code there is a particular statutory requirement that if there using State funds that Universities and State Agencies can't engage the Vendor for prior to there being a contract signed and in writing and if they do that they have to file what's called a late execution affidavit with the Comptroller's office. They have to get the Comptroller to sign that Affidavit. Treasury Office to sign that Affidavit, and the CPO to sign that Affidavit. That's limited in the Procurement Code to state funds and we have seen numerous instances of where they are using University funds. University basically engage vendors and contractors without having a contract signed and in place. We think that is a bad policy, so we added a rule that says regardless of the source of funds, you have to have that contract signed and put into place before you basically engage that vendor, and if you don't you have to provide that information to the Chief Procurement Office so we can determine whether or not there's a problem with the University. We're trying to engage some of those particular differences Chairman Vala regardless of whether or not its State funds, or University.

Chairman Vala says we go back to my statement where does University money come from? Ms. van Dijk says that often times its tuition dollars, sometimes its grant donation, sometimes its

money they generate themselves. Chairman Vala asks do you have a definition in here of what small generated funds, and what University funds that were implied? Chairman Vala says \$90 million dollars was presented to this Board as University money for a contract up in Chicago. Ms. van Dijk says so a couple things on that, most of the Procurement Code it applies regardless the source of funds, and it says that in the first section of the Procurement Code it says the Procurement Code applies regardless of the funds. So, whether there University funds, whether they are funds that are generated, or appropriated by the General Assembly those funds are subject to the Procurement Code there are some exceptions. Donations are listed as an exemption, and there is the 1-13 exemption as well. But in general, the Procurement Code applies regardless of the source of funds. Chairman Vala asks the amendments you want to make here? Ms. Vandyke says no that's just the Procurement Code that's not us doing anything.

Member Bedore asks on section line 853 renewal any renewal on Real Estate Lease at which renewal is not present may be allowed, what is your explanation of this? It says may not be present, but you can still go ahead. Ms. van Dijk says I think there is a provision in the Procurement Code, that says even if a contract for Real Estate doesn't contain a renewal provision in it where is specifically provides for a renewal that there can be renewal. Am I incorrect or am I remembering some article? Mr. von Behren says that's where our Board gets our extended oversight when we must have those Certificates with no objection from the Board for those Leases because, they basically were in the space we liked the rate, stay there for another 5 years. The Code calls it a renewal or an extension. To call it a renewal kind of confusing, because we think the renewal would already be in the Contract in the provision, but I think it's more of an extension. But this Statue actually says renewal or extension of a Lease provided that the CPO determines it's in the best interest. The CPO submits that renewal to the Board the Board does not object in writing within 30 days and the CPO publishes the renewal or extension the appropriate volume of the Bulletin. So, that's that section where all those Leases come from this Board for are approval. It's says renewal, but the Statue says renewal or extension, and we have always called it extension of the Leases already in place not really a renewal. There is no way to change the Statue. Member Bedore says if you have a Lease and it had a ending date, but there was a provision for extension, any renewal of Real Estate Lease for which a renewal provision is not present maybe allowed. I am totally confused on that last line. Mr. von Behren says the way the Statue is written let's say we do a 5 year Lease just a straight 5 at the end of that Lease if the State determines that they want to stay there another 5 years under section 30 ILCS 500-40, they can do an extension of the Lease as long as the following four things happen. CPO says it's in the best interest in the State to extent it for another 5 years, or for however long they want. They provided that written determination to this Board and this Board determines that does not object in writing in 30 days and then we publish it in the Bulletin as long as those things happen we can extend the Lease. I think the confusion comes in under the term renewal because also in article 40 there's another section that uses the term renewal, and actually speaks to a situation, where we have Leases may include a renewal option and option maybe only exercise only when the SPO determines it is the in the best interest of the State, and they exercise that option in the Procurement Code, and again those Leases come in front of this Board so there are two sections of article 40 that discuss renewals. This section under 40-25 lengths of Leases is what you're talking about, where you have a 5 year with a 5-year renewal which is what we usually see. Section 5 is basically an exemption for putting it out for bid staying where we are and extending the Lease, and those come before our Board and we issue a

Certificate of no objection, or we object to them if we don't think it's in the best interest. The rule is basically just pointing to that section if there is not a renewal they can still extend it to concerning to those other sections which reference article 40-15 of the Procurement Code itself.

Ms. van Dijk says and in general if a contract does not contain a renewal provision under the Procurement Code a University or a State Agency can't just on there on say "well were going to review this", this section of article 40 of the Procurement Code is the exception. Member Bedore says going back up to section line 840 what is different because we had a little concern in the past regarding architectural and so forth and so on. Is there anything really changed in here? Ms. van Dijk replies I don't think so. I am just referring to QBS is a method of source selection just as a IFB is a method of source selection just as a RFP is a method of source selection just as Construction Management is a method of source selection. Member Bedore says and do you have a Conflict of interest provision in here? Ms. van Dijk says one thing that have done in these particular rules, and we read every audit that actually comes out on every State agency, or State University. Because a lot of times the Audit's come forward with issues that impact the Procurement Code. whether there an Audit against the University or not. We try to learn lessons from everybody else mistakes, and one thing we have done in these rules is to establish rules for evaluation Committee's and Conflict of Interest for the Members who are sitting on those Committee's to try to make sure we avoid any of those appearances.

Member Bedore says so you corrected that type where it's all internal in one-person name's all the committee, and that person have a Conflict? Ms. Van Dyke says yes were trying to avoid that by establishing clear rules on that process. Member Bedore asks where in section 1000 you're talking about your bids who is going to meet the entire goals request a full or partial waiver, make good faith efforts meeting the goal. Who's going to decide this? Ms. van Dijk says in the Universities I guess I could say that each University does it different. I'll talk about the University of Illinois they have a compliance diversity. Member Bedore asks why does University of Illinois has one set of rules, and Northern has a different rule regarding how they select a Committee is that what you just said? Ms. Van Dyke replies well I can see that the University of Illinois system for both Champaign, Chicago, and Springfield I guess because there a larger University. Because specific group of people who work with their Universities on establishing goals and they serve as there Good Faith Committee. Every University on every Procurement that has a goal, should have a Good Faith Effort Committee. That basically reviews solicitation and has a goal on it. If the goal is not fully meant basically the utilization plan indicates that you haven't meant the goal. Member Bedore says, you just said that the U of I. UIC, and UIS they have a group that looks at their goals, and how they are being met, what happens in Carbondale? Ms. Van dyke says every University has the BEP Liaison, and BEP Committee that is basically implement the policies, and procedures of the BEP Act. U of I because it's a larger one I guess because that is more people serving that capacity. But this is my understanding, and then again, the CPO doesn't have direct jurisdiction over BEP but each University when they're ready to a solicitation out in the street, are supposed to establish a goal. Member Bedore asks if they can establish a different goal then at the main University then. Ms. Van Dyke says correct CMS in 2012 set out a policy on here's how you set goals, they basically walk through, and here are the various factors that you take into consideration on setting a goal. So, on each Procurement, on each University, each State Agency it goes through that process to determine should this goal have 20%, 30% 10% goal wherever the University establishes that

goal. The solicitation goes out, and then if the goal is not met in full or exceeded by a particular vendor then there is supposed to be a Good Faith Committee in each University, or State Agency and Agencies under the jurisdiction of the Governor it's my understanding that BEP and CMS serves that function. But they review to determine whether or not the vendor has made a Good Faith effort or not. One of the things that rules do, is required as part of the public Procurement file in rule 4.2080 that entire goal setting process that the University went through, how they establish the goal, what factors they looked at becomes part of the Procurement, and if the goal is not met a determination was made by the University to waive that goal in some fashion and that information be contained in as part of the Procurement file, which is a document that is available to General Public 7 days after publishing the notice of award, so that we have the ability to look into how that goal is set, and if the goal was not met or exceeded what the circumstances were if the University granted either a full or partial waiver .

Member Bedore says my point is are the goals different in Carbondale, and Northern then the U of I. Ms. van Dijk says so the overall goal for the State is 20% and that's broken down etc. Member Bedore says he understands but each particular solicitation goal has to be an established on the basis of availability. Ms. van Dijk says let's just say your putting out two very similar solicitations one down in Carbondale, and one in Chicago, on the basis of training material that has been provided by CMS you have to take into account the availability of Minority Vendors in that particular area you could end up with two different goals, depending on the availability of Minority Vendors, and again that's my understanding on the basis of CMS guidance that was issued in 2012. Member Bedore says he really has a problem with the U of I system Champaign Urbana has a controller, Northern has a Controller, and Carbondale has a controller, right? Ms. van Dijk replies to her understanding. Member Bedore says Carbondale has a Comptroller, and an Assistant Comptroller, and an Administrative Assistant and blah, blah. I don't understand why there isn't one Comptroller, one Treasurer, why there isn't one Board that reviews all the Minority Contracts. You know why Carbondale is or Eastern different then the U of I what's different between the big Universities, and the small ones? Why isn't there overall a board that reviews all the contracts for the U of I everything. Ms. van Dijk says again you might be getting outside of the CPO jurisdiction a little bit here, but it my understanding that the BEP Counsel is delegated to each of the Universities, the ability to set goals. Member Bedore says do you know what the goals are for each University?

Ms. van Dijk says the overall goals for the State are 20%. Member Bedore asks what are they doing for the Veterans? Ms. van Dijk says on the Veterans their overall goal is 3%. Now that's as its define basically state Contracts so, CMS sets the definition for what a State contract is. now as we have advised the Universities if that overall goal is 20% on a particular Procurement. Let's say it's not available and that have issued some kind of first waiver the goal is 10%., and overall at the end of the year there going to have to make up those dollars, on another Contract. So, the next on contract if it's at the same side might have to have a goal of 30% in order to try to reach that goal of 20%. So, if you don't reach it on one particular Contract overall at the end of the year in order to try to meet those goals you probably have to make them up somewhere else, and that's something that the CPO's Office continually stresses with the Universities that if there is a waiver or an exemption that gets granted on one particular one.

Member Bedore says do we have any figures on how the U of I is regarding Minority, and Veteran? Ms. van Dijk says I can say roughly last year BEP report was about 5%. Am I incorrect n that Member Ivory? Member Ivory replies your right its 5% there was a hearing just recently Member Bedore, where they had a hearing with the Universities, that was not a very positive hearing at all. Member Bedore says there again your goal is 20%, and 3% and we just heard that they hit 5% where is the compliance in this? We can set these things all we want as we went through with the last group. There is nothing that says you must do this. Ms. van Dijk says right, and there has been a couple of changes to the Business Enterprise Program Act that are trying to establish some penalties. Member Ivory can talk to them, but one of them was a change last year to the BEP Act that specifically identifies that once a Vendor has committed to meeting a goal, it's no longer a goal. Before you agree to do it it's a goal but once a Vendor agrees to do something it's no longer a goal its now a deliverable that part of that Contract.

Member Bedore says, and when the Vendor doesn't he agree to 20 and 3 and he comes up with 5% what happens nothing? Ms. an dijk says so two things needs to happen, number one there actually has to be follow-up by the Contract Administration unit of the University to actually to determine whether or not Vendor progressively is meeting that goal or not. But there should be quarterly reports, semi -annual reports, you know if you got a 3-year Contract you don't want to wait till its 95% done in order to try and found out whether or not that Contract goal is being done or not. So, the Universities need to do contract administration and they need to be actually checking in on their Vendors. I would argue at least on a quarterly or a semi- annual basis to say. How is it that you're during towards meeting the goal, the other thing is in terms of this particular rules we have identified in a couple of the different sections in terms of defining what can that Contract be cancel for, which included the failure to meet the agreed upon deliverables of the goals as being the reason for Contract cancellation. But we need the universities to do their part here. It's a breach of contract when they do not meet there agreed upon deliverable, and at the point it's no longer a goal it's a deliverable.

Member Ivory says for the record the University of Illinois is doing better than most. ISU is less than 1% most of the Junior colleges are less than 1% that don't come close to hitting of the goals. Joliet Junior College, is the oldest Junior college in the United States of America they have yet in the whole History ever have an African America Worker, or a Hispanic ever had a Contract in Professional Services in their history. You have any consistency with Junior Colleges, now does this apply to the Junior Colleges? Ms. van Dijk replies no we only have jurisdiction over the Public Institutions of Higher Education 9 Universities total of 13 Campus. Member Ivory asks who would have compliance with the Junior Colleges? Ms. Van Dyke replies those are all going to be the individual Colleges. Member Ivory says the process good Faith Effort as you know there is a lack of consistency, in terms of what is define Good Faith Effort, and there has been no consistency into what we consider Good Faith. I have been consistency in what we call Good Faith Effort to be and not to be. Ms. van Dijk replies no! and I would point first to CMS rules on the BEP Program and specifically has a rule its 44 Illinois Administrative Code Rule 10.9.1 it defines Good Faith Effort, and its define as one of three things. One they do contact at the BEP Council 15 days in advance, the Solicitation Seeking Assistance. Two that you reach out to Trade Organizations, Unions etc. and three that you advertise in the official State Newspaper. That is what is describe in CMS Administrative Rules as Good Faith Efforts. Those rules have not been updated since the early 1990's. Member Ivory ask as a CPO when you take a look at the

Procurement process the SPO, CPO they are the vanguard of the Procurement process, in terms of making sure the Procurement process was fair, and transparent, and hold every accountable. If a Good faith effort is not meant you guys have no oversight in terms of the Good Faith Effort. Ms. van Dijk replies we do not. But the one thing we are at least trying. There are instances where the CPO's Office or an SPO can't even get information of how Universities set a goal, or what factors they considered in determining whether to grant an exemption, or a Waiver. So, one of the things that these rules do is to actually say that all of that has to be part of the Procurement file. Member Ivory states that he has a lot of questions, that won't get answer today. But we want to make sure were timely on terms of our end time so I'm going to yield that and maybe we come back and have a more personal conversation and they maybe bring it back to the General Board. Ms. van Dijk says one thing I do want to point out is with Ben being Sick today. Is we did provide advance copy to the Executive Director so that it could get on today's agenda. But our first notice period doesn't expire until November 26th so these have only officially been published since Friday of last week. So, we still have a lot of opportunity for dialogue discussion on how it is that we didn't approve these for next month's meeting or any questions, that Shirley and I can't answer for you today to make sure Ben can come back and answer for you.

Chairman Vala asks when the University lets a Contract, and the Contractor says he's going to meet the 20% and he doesn't isn't that fraud? On the contract it says that 40% of this work is going to go. Let me give you an example City of Springfield they let Contracts, and if a Contractor does not hire within their standards which in requires Springfield Illinois residency to be in employed in that Contract they lose a percent in there Contract they have to pay the city back. Is this something that the University could entertain?

Ms. van Dijk replies in terms of fraud that's a criminal term. which basically requires intent. The short answer to your question is whether or not it's something that the University could entertain is yes. They need to do Contract Administration in general the CPO once we do the Procurement, and make sure the Procurement was done correctly and get a signed Contract so to speak ,its turned over to the University to make sure that the Vendor is getting the deliverables, doing what is it that they were hired to do, meeting the goals and all of those types of things. We occasionally get involved for example one of things that we have done in these rules, and this has been a particular problem related to the use of BEP Subcontractors is the utilization plan will identify, if I'm going to be using be a VIP Vendor, I'm going to be using Veterans Vendor, and on the bases of that they basically get awarded the Contract because you have met the goal, and they that Subcontractor never here's from the prime Contractor again and the work is never done, and somewhere along the lines the Contractor has swap out Subcontractors who are used. Well there not supposed to be doing that. You are basically able to change a Subcontractor for good cause and if it's a BEP Vendor you actually have to do it with compliance with Rules that CMS has set up again through the BEP Counsel., on replacing that Subcontractor but again it's for a good cause. We didn't have a definition in our rules of what a good cause is so we have identified about 9 or 10 different elements of what good cause is for replacing a Subcontractor, and reminding them as well there suppose here supposed to get the CPO to sign on them, on when they're going to be replacing the Subcontractor. We actually have to see what the good cause is, and again were trying to make it harder for "fraud" for it to accrue with subcontractors getting swapped out without anyone's knowledge.

Chairman Vala states that he was bold over the fraud it happens if they don't reply. Have you considered a financial penalty if they don't? Ms. van Dijk replies that the Universities have it in their Contract. The problem is getting the Universities, and the State Agencies to do Contract compliance Shirley, and I can tell you hundreds of Stories. Chairman Vala says that's what I'm asking were working on new rules and were working on a change so why can the University will the University, should the University come up with a financial penalty if the contractors are not in compliance. If there not employing the Veterans. Ms. van Dijk states that she's not trying to ship the blame here Chairman Vala, but with the CPO's office has jurisdiction over is making sure that the Procurement is done correctly, and that the Contract was enter correctly. The Universities, and the State Agencies responsibility once they have that contract to properly Manage it. Chairman Vala replies that's what he's hoping for.

Member Bedore states that since your coming back next month we need to work on some type of language where there is some type of penalty. I can understand missing the goal one or two percent, but five percent compared to 23. Member Bedore recommend that we should really get into this whole thing of Contract Administration with the U of I obviously there is a problem, and we really should speak to that issue. The Board agreed to able the vote until the next meeting. Member Bedore a motion that we adjourn meeting, with Member Ivory Seconding the motion. With all Members Voting "aye" meeting adjourned.