

**Business Enterprise Program Council for Minorities,
Females, and Persons with Disabilities Meeting**

MEETING MINUTES

**Monthly Council Meeting
Location: Video Conference Room 2-025
James R. Thompson Center
100 W. Randolph Street, Chicago, Illinois**

Monday, July 25, 2011 1:30 p.m.

COUNCIL MEMBERS IN ATTENDANCE

Alesia Hawkins
Florence Cox
Jesse Martinez
Beth Doria
Lynne Turner
Larry Ivory, via teleconference
Hedy Ratner
Patrick Blair, via video conference

COUNCIL MEMBERS NOT IN ATTENDANCE

Lawrence Parrish
Nelida Smyser-De Leon (represented by Anna D'Ascenzo)
Phillip Barreda
Michael Gonzalez

COUNCIL CHAIRMAN

Malcolm Weems, CMS Director

COUNCIL SECRETARY

Ruddy Ortiz

CMS STAFF IN ATTENDANCE

Ellen Daley, CMS/Senior Procurement Counsel
Daymon Ruttenberg, CMS/Deputy General Counsel BCCS
Ashley Hooks, CMS/Legal Services
Leslie Taylor, CMS/BEP
Yvette Riley, CMS/BEP
Elias Ricks Ngwayah II, CMS/BEP
Tasha Green Cruzat, CMS/ Chief Operating Officer
Philina King, CMS/ Deputy General Counsel BEP
Harry Reinhard, CMS/BEP Compliance Manager
Susan Hartman, CMS/Chief Knowledge Officer
Chima Enyia, CMS/ Director's Office

OTHERS IN ATTENDANCE

Sharron Matthews, Assistant Director for Illinois Department of Healthcare and Family Services
Vir Doshi, Illinois Department of Healthcare and Family Services
Omar Brown, University of Illinois at Chicago
Anna D'Ascenzo, Illinois Department of Human Services

Dan Johnson Weinberger, Partner, Korey Cotter Heather Richardson LLC
Stephanie Stephens, Diversity Manager, Illinois State Toll Highway Authority
Gilbert Villegas Jr., Illinois Capital Development Board
Matt Brown, Chief Procurement Officer, Illinois Executive Ethics Commission, via video conference
Aaron Carter, Executive Director for Illinois Procurement Policy Board, via video conference
Timothy Fishburn, Administrator for Procurement Policy Board, via video conference
Joe Kim, Illinois Executive Ethics Commission, via video conference
Bonne Clayton, Illinois Department of Commerce and Economic Opportunity, via video conference
Art Moore, Illinois Executive Ethics Commission-SPO for Illinois Department of Commerce and Economic Opportunity, via video conference
Ben Bagby, Chief Purchasing Officer, Higher Education, via video conference
Samantha Hufnagel, Attorney for Illinois Department of Commerce and Economic Opportunity

AGENDA

- 1.0 CALL TO ORDER
- 2.0 ROLL CALL
- 3.0 APPROVAL OF THE MINUTES OF THE REGULAR COUNCIL MEETING HELD ON June 27, 2011
- 4.0 CHAIR'S REPORT
- 5.0 POSTED BUSINESS
 - 5.1 EEC Presentation – Matt Brown
 - 5.2 State Agencies' Monthly Reporting & Tracking
 - 5.3 BEP's SB3249 Proposed Process
- 6.0 UNFINISHED BUSINESS
 - 6.1 Pending Motions
 - 6.2 Committee Updates
 - A. Exemption/Compliance Committee
 - B. Bonding Committee
 - C. Professional Services
 - D. Policy/Enforcement Committee
- 7.0 NEW BUSINESS
- 8.0 ADJOURNMENT

CALLED TO ORDER

Malcolm Weems, Director for Illinois Department of Central Management Services, called the Business Enterprise Program Council meeting to order at 1:40 PM.

Ruddy Ortiz, Business Enterprise Council Secretary, took roll call.

MINUTES OF COUNCIL MEETING OF June, 2011

The minutes of the Council meeting held June 27th were approved with no opposition or abstentions.

2011 COUNCIL MEETINGS

The upcoming BEP Council meetings will be scheduled for the fourth Monday of each month, from 1:30 PM. to 3:30 PM.

The Council meeting calendar for 2011 is as follows:

22nd August 2011 – JRTC, Room 2-025

26th September 2011 – JRTC, Room 2-025

24th October 2011 – JRTC, Room 2-025

28th November 2011 – JRTC, Room 2-025

27th December 2011 – JRTC, Room 2-025

CHAIR'S REPORT

Chair Malcolm Weems reported on the following items.

Procurement Reports to the Council:

- Chair Malcolm Weems recapped last month's discussion about providing the Council with a contract report for today's meeting, as well as on a monthly basis. He recognized the efforts and challenges CMS/Bureau of Strategic Sourcing faced to compile the data and asked the Council to bear with them as they push to deliver reports that are useful for members. He is open to suggestions and recommendations.
- Chair Weems noted that the contract award report will be discussed later during today's meeting.

Illinois Department of Central Management Services (CMS) and Illinois Executive Ethics Commission (EEC) procurement policies:

- CMS, in conjunction with EEC, is currently working to reestablish procurement policy and work flow as a result of SB51.
- Chair Weems shared his strong commitment and strategic goals for CMS and BEP Council.

BEP Council outreach to agency BEP liaisons:

- Chair Weems advised members to invite BEP liaisons, as well as agency Directors, to attend monthly meetings to discuss their commitment to increasing BEP participation goals in contracts.
- Members will be provided a list of agency BEP liaisons.

BEP Council membership:

- Chair Malcolm asked members to submit recommendations for new members to the Office of the Governor.

POSTED BUSINESS

Presentation by Matt Brown, Chief Procurement Officer for CMS

Matt Brown reported on procurement processes and CPOs responsibilities since SB51 implementation. After his presentation, he entertained questions and concerns from the Council. In addition, he provided the names of the other three chief procurement officers and their area of expertise.

1. Ben Bagby - Higher Education
2. Fred Hahn - Capital Development Board
3. Bill Grunloh - Department of Transportation

Matt Brown shared some of the CPOs areas of interest in the Business Enterprise Program. He encouraged Council members' participation on the following:

1. Data collection for monthly reporting and compliance tracking. There can be better decision-making when we have good data and better reporting.
2. Establish workgroups to discuss outreach for the BEP program.
3. BEP Council and CPOs to provide direction and assistance to agencies and BEP liaisons in BEP goal setting.

Highlights of presentation and key points of discussion are as follows:

- EEC role in procurement vs. CMS role, explained in detail by Matt Brown, Ben Bagby and Chair Malcolm Weems.
 - EEC role in the procurement process is defined in the Illinois Procurement Code.
- Waiver and exemption process - question asked by Member Jesse Martinez and response by Matt Brown, Ben Bagby, Chair Malcolm Weems and Philina King.
 - Matt Brown advised that prior to SB51, waivers resided solely with CMS Director who oversees the BEP Council and Business Enterprise Program. Senate Bill 51 created a separation of the Chief Procurement Officer. He said that the EEC/CPO wants to know the BEP program and BEP Council position much earlier on in the procurement process before executing a contract. Mr. Brown explained that he has signed off on waivers that included a goal, but not waivers that involve whether or not participation was in good faith. EEC is working with CMS to finalize this process.
 - Ben Babgy encouraged everyone to read the statute on waivers as the council has the authority to grant waivers pursuant to the BEP Act. The CPOs will have an interest in making sure the waiver is well justified.
 - Philina King indicated that CMS is currently restructuring the waiver process for the Business Enterprise Program.
 - Chair Malcolm Weems advised he has had several meetings surrounding the waiver process. CMS/BOSS will monitor and review procurements on the front end to ensure that procurements are evaluated to determine if it is eligible for BEP participation goals before issuing an award. He noted that there were several procurements that came through CMS that did not have goals on them.
 - Member Florence Cox asked what the due diligence standard is for determining good faith efforts. Philina King responded to the question and provided examples of the type of analysis that is performed. Ms. King provided examples of good faith efforts and will provide members with JCAR rules on this topic.

Presentation by Samantha Hufnagel attorney for Illinois Department of Commerce & Economic Opportunity

Samantha Hufnagel introduced herself to the Council and thanked everyone for the invitation to attend today's meeting. She provided a general overview of Illinois Department of Commerce and Economic Opportunity (DCEO) grant program as it relates to Senate Bill 3249, explaining in detail types of monitoring performed by the Department and the grant funds recovery act. The

legislation passed July 16, 2010 and the business enterprise program plan has been incorporated into DCEO grant applications and grant agreements. The recipient must submit a written certification and business enterprise program plan for minority-owned businesses, female-owned businesses and businesses owned by persons with disabilities before signing the relevant grant or loan agreement. The grant agreement certifies that the grantee will comply with the BEP Act and becomes a legally binding part of the grant agreement.

Highlights of presentation:

SB3249 – Business Enterprise Program:

- There is no definition of the business enterprise program plan in SB3249. The statute only applies to those parts of a project that are funded with grant funds.

Capital Project Grant Awards:

- The agency issued 137 grants in fiscal year 2011 which were subject to SB3249. Grants run for a two (2) year period and none have expired.
- DCEO require grantees to indicate what they plan to do with the grant funds in an application that is submitted prior to the grant award.
- DCEO considers the business enterprise program plan to be the scope of work and does not contain subcontractors. DCEO does not require a numerical goal to be contained in the grant agreement for M/WBE firms.

Monitoring Activities performed by the Department include:

- Review and evaluation of grant applications and recipient business enterprise program plan contents.
- Non-compliance.
- Violations pursuant to the grant funds recovery act.
- Conduction of desk reviews, on-site reviews and on-site visits.
- On-going communication
 - DCEO advises each recipient to contact CMS/BEP directly for questions regarding the BEP Act.

Chair Malcolm Weems yield floor to members.

There was some discussion about SB3249 and BEP Plan contents and compliance monitoring of grant funds. Discussion was lead by Dan Johnson Weinberger, Member Beth Doria, Member Florence Cox, Member Jesse Martinez, Member Larry Ivory and Chair Malcolm Weems. Mr. Johnson inquired about the BEP Plan and if it contained numerical goals for M/WBE subcontractors. Member Beth Doria asked about the compliance monitoring of grants that are only monitored by DCEO on the back end. Member Jesse Martinez asked about the ramifications for vendor if they are found be out of compliance at the end of the project. Member Larry Ivory asked if DCEO had a compliance team that follow-up with vendors out of compliance. Member Florence Cox shared her experience with DCEO – Chicago Office and confirmed that DCEO monitor grant funds very closely and performs site visits to grantees office.

Presentation by Susan Hartman, Chief Knowledge Officer for Illinois Department of Central Management Services, Bureau of Strategic Sourcing

Susan Hartman distributed copies of two (2) spreadsheets in excel format to the Council and explained each one in detail. The nineteen (19) page report contained June 2011 contract awards and the corresponding vendor information and the four (4) page report indicated solicitations downloaded from CMS Bulletin covering the period of June 2011. Members will be provided via an additional spreadsheet that contains contract data for January 2011 through July 22, 2011 via email. CMS will provide contract award report on a monthly basis. In addition, Ms. Hartman submitted a request to Illinois Department of Central Management Services (CMS) Bureau of

Communication and Computer Services (BBCS) to add fields to CMS system for better reporting and tracking of contract awards and BEP participation goals.

System modifications are as follows:

1. Add field for every vendor detail which will show winning vendor and contract amount.
 2. Add a DBE field.
 3. Add a BEP field to capture the goals.
- Ms. Hartman noted that on every solicitation and notice record, the system contains a field for the user to select if there is a BEP goal on the solicitation. Currently, the system defaults to indicate “no.” The new field will require the user to answer the question and not default to “no.” In the solicitation, BEP goals are outlined in the solicitation document attached to the notice. It is not a field that CMS can perform searches on. System upgrades will better allow CMS to insert the goal into a field in the notice itself.
- Interim modifications are required to the Illinois Governmental Purchasing System until BCCS add new fields. This is an automated system used for equipment, commodities and printing and travels over to the Illinois Procurement Bulletin. These systems will need to be updated to use with invitation for bids.

Presentation by Ruddy Ortiz, Deputy Director for Business Enterprise Program

BEP Council Secretary, Ruddy Ortiz reported on BEPs Senate Bill 3249 Proposed Process. He passed out a sheet that indicated an eleven (11) step process that CMS/BEP propose to use for development and monitoring of all grants relative to Senate Bill 3249 (Public Act 096-1064). Mr. Ortiz explained each step in detail and allowed feedback from the Council. He noted that BEP staff will serve as an assist agency to state agencies and grantees and will monitor compliance on grants issued under this act. The process is standardized and can be used by all agencies.

Noted: Chair Malcolm Weems noted that grants forms will be posted on CMS/BEP websites after final review.

UNFINISHED BUSINESS

Chair Malcolm Weems called for committee updates.

- A. Exemption/Compliance Committee – No Report – Chair, Jesse Martinez
- B. Bonding Committee – No Report – Vacant
- C. Professional Services Committee – No Report – Chair, Hedy Ratner
- D. Policy/Enforcement Committee – No Report - Chair, Beth Doria

Member Beth Doria stated her committee did not have a report. However, she did pass out a draft format of the BEP Council’s position on M/WBE data collection from all agencies and explained the format in detail. Chair Malcolm Weems noted that this item will be tabled until next month meeting and will be an agenda item under unfinished business.

Discussion on revitalization of committees

Action Steps: As the Council moves forward, Chair Malcolm Weems advised he would like to see committees utilized more and called for representation for bonding committee. He noted that bonding is an issue for BEP certified vendors in terms of participation on contracts.

Bonding Committee

Member Larry Ivory volunteered to chair the bonding committee. Current bonding committee members include: Florence Cox and Larry Ivory.

Professional Services Committee

Member Larry Ivory joined the Professional Services committee. The committee now has a total of four (4) members. Current professional services committee members include: Hedy Ratner, Lead Chairman, Phillip Barreda, Michael Gonzalez and Larry Ivory.

NEW BUSINESS

Chair Malcolm Weems called for new business.

Discussion on Joint Committee on Administrative Rules (JCAR)

Hedy Ratner reported on exemption categories in the Joint Committee on Administrative Rules (JCAR). She recommended that the following categories be removed from the rules: public utilities, electricity, gas and telecommunication. She noted that these categories should not be exempt and should have M/WBE goals attached to them. In addition, she advised members of upcoming contracts with NICOR that should have M/WBE goals attached.

Legal Opinion – Categories of Contracts and Expenditures Exempt from Goal

Philina King briefed members on annual review of exemption categories pursuant to JCAR rules Section 10.22, part c. which states the following in part:

Prior to the end of each fiscal year, the Secretary shall investigate the categories of contracts.... The Secretary shall present the determination to the Council, and the Council shall either continue with the current categories or change the categories.

Philina King advised members to review the exemption categories and submit their recommendations to CMS legal. The paperwork will then be forwarded on to JCAR.

Noted: Chair Malcolm Weems proposed review of exemption category changes to JCAR rule.

Council Agreed.

Action Items:

- Members will be provided a list of agency BEP liaisons.
- Council Secretary Ruddy Ortiz will send Matt Brown a copy of BEP grants 11 step process.
- Members were asked to forward their contact information to Council Secretary Ruddy Ortiz. Mr. Ortiz will update Council contact list and send via email to all members.
- Philina King will provide members with JCAR rules on good faith evaluation for next month meeting and asked members to review and submit to Ruddy Ortiz, any suggestions and recommendations.
- Chair Malcolm Weems advised that Member Beth Doria will present data collection format report at next month meeting and will be an agenda item under unfinished business.

Next Steps:

- Next meeting is scheduled for Monday, August 22, 2011, James R Thompson Center, 100 W Randolph Street, Room 2-025, 1:30 PM to 3:30 PM.
- Moving forward, Chair Malcolm Weems wants to utilize committees more.
- Chair Malcolm Weems will keep members updated in regards to CMS/BOSS procurement system upgrades/challenges and procurement policies.
- Philina King advised members that CMS is working to restructure the waiver process.
- Chair Malcolm Weems asked members to work together to come up with some focused thoughts and recommendations before inviting DCEO Warren Ribley to a meeting.
- Chair Malcolm Weems noted that grants forms will be posted on CMS/BEP websites after final review.
- BEP liaisons will be invited to attend monthly meetings.
- Member Larry Ivory volunteered to chair the bonding committee.

Meeting Adjourned at 2:50 PM