

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

**Monday, June 24th, 2019 - 1:30 PM – 3:30PM
MONTHLY COUNCIL MEETING MINUTES**

100 W. Randolph
Room 2-025
Chicago, Il 60601

401 S. Spring St.
Room 500 ½
Springfield, IL 62706

COUNCIL MEMBERS IN ATTENDANCE

Edward McKinnie; Hedy Ratner; Sharla Roberts; Beth Doria; Denise Barreto; Karen Eng; Derrick Champion; Sharron Matthews; Alex Bautista; Bola Delano

COUNCIL MEMBERS NOT IN ATTENDANCE

Emilia DiMenco; Sheila Hill-Morgan

COUNCIL CHAIR

Janel Forde

COUNCIL SECRETARY

Terrence Glavin

CMS STAFF IN ATTENDANCE

Elias Ricks Ngwayah II; Harry Reinhard; Carlos Gutierrez; Irma Lopez; Jeanetta Cardine

OTHERS IN ATTENDANCE

PUBLIC NOTICE
STATE OF ILLINOIS
Business Enterprise Council for Minorities, Females, and Persons with Disabilities

100 W. Randolph
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Room 500 1/2
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AGENDA
June 24, 2019
1:30 p.m. – 3:30 p.m.

- I. Welcome
- II. Call to Order
- III. Roll Call – Terry Glavin
- IV. Approval of Minutes of Council Meeting held on April 22, 2019
- V. Chair’s Report – Janel Forde
 - **Senate Bill 534**
- VI. Subcommittees Reports
 - Certification Subcommittee Report
 - Outreach Subcommittee Report
 - Compliance Subcommittee Report
- VII. Old Business
 - Update on Utilization Plan
 - Update on the Data-Sharing and Usage Agreement
 - Update on the One-Pager
 - Update on Obama Energy/Wesco Contract
 - Update on the Internet Egress RFP
 - Update on Attendance and Participation Policy for Council Members
- VIII. New Business
 - Role of minority businesses and the new marijuana legalization laws
- IX. Sheltered Market
- X. Public/Vendor’s Testimony
- XI. Adjournment
 - Next Subcommittee Meetings
 - Certification Subcommittee Meeting – July 22, 2019
 - Outreach Subcommittee Meeting – July 23, 2019
 - Compliance Subcommittee Meeting – July 24, 2019
 - Next Council Mtg. – August 26, 2019

Please note: In case you need to connect to the meeting via teleconference, please use the following number and access code:
Teleconference Number: 888-494-4032
Access Number: 2587213722

BEP Outreach Events: <http://www.illinois.gov/cms/events/SitePages/List.aspx>
Note: There will be no IPB Notices and Solicitations Reports for this meeting.

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MINUTES

June 24th, 2019
1:30 p.m. – 3:30 p.m.

I. Welcome

II. Call to Order

III. Roll Call

IV. Approval of Minutes of Council Meeting held on April 22nd, 2019

Chair Forde requested a motion to approve the minutes from the April 22nd, 2019 meeting. Member Ratner motioned for the approval of the minutes and Member Eng seconded. Vote taken; motion passes.

V. Chair's Report

➤ Acting Secretary Position in Council Operations

Chair Forde selected Terry Glavin to serve as Acting Secretary of the Council, responsible for the operations of Business Enterprise Program (BEP) including the following duties and responsibilities: day-to-day operations; serve as coordinator for all state programs for businesses owned by minorities, women and persons with disabilities; establish enforcement procedure whereby Council may recommend to appropriate State legal officer that the State exercises legal remedies; devise appropriate policies and regulations; devise procedure for waiver of participation of goals; accept donations and approve grants related to the purposes of the Act. The Committee endorses the appointment of Terry Glavin as Acting Secretary.

➤ Legislative Update

Senate Bill 534 amends the Department of Labor laws of the civil administrative code to create a bureau on apprenticeship programs. The bureau will work to increase minority participation in active apprenticeship programs and remove barriers to minorities pursuing construction careers. The bill also creates an advisory board for diversity and active apprenticeship programs approved by the U.S. Department of Labor. The board will work to increase diversity in active apprenticeship programs. The bill amends the BEP Act to require that minority, women and persons with disabilities as business owners get a specific percentage of the total dollar amount of construction and various other service contracts with the State. SB 534 adds persons with disabilities into the goal requirements for construction contracts (20% goal for construction: 2% disabled, 11% minorities, 7% women). SB 534 amends the criminal code to increase penalty for deception relating to certification as a disadvantaged business enterprise to a Class 1 Felony. The bill makes other changes relative to waiver an exemption request including the ability for the Council to charge a fee for waiver requests.

➤ Data-Sharing and Usage Agreement with Comptroller's Office

Chair Forde assigned data sharing and usage agreement with the State's Comptroller. Central Management Services (CMS) BEP appreciates council members Emilia DiMenco, Hedy Ratner's participation in the final draft review and the full Council's review of the agreement prior to its execution. The agreement will

ensure compliance with a minority contractor opportunity initiative (15 ILCS 405/23.9). The agreement allows BEP to share data with the Comptroller's Office. The Chair thanks Terry Glavin for legal perspective as General Counsel.

VI. Subcommittee Reports

- Certification Subcommittee Report - Chair Sharla Roberts

A meeting was held on May 28th, 2019 that heard four (4) appeals for certifications. The committee voted to overturn two (2) denials, upheld denial on one (1), and as the committee ran short of time one (1) appeal is pending until the next meeting.

- Outreach Subcommittee Report – Chair Emilia DiMenco

Acting Secretary Glavin provided an update in Chair DiMenco's absence. The committee reviewed documents including a draft "tenant's policy" and a draft one-pager (used for outreach of the Council's endeavors and activities) and made significant progress toward a final draft to be approved by the Council.

- Compliance Subcommittee Report – Sharla Roberts

Chair Roberts stated the last meeting was held on May 30th, 2019. The committee continued working on the Utilization Plan distributed to the Council. The committee had not received feedback from the Council. Chair Roberts requested a deadline for feedback and distribution of the plan to new council members. Chair Roberts stated concerns about new legislation having an impact on a Utilization Plan containing erred information without the Council's feedback.

The committee also addressed the process of using B2Gnow (who has access, who is utilizing). Acting Secretary Glavin conducted a survey on how to maximize usage of the B2Gnow system. Chair Roberts celebrated the relationship with the Comptroller's Office as a step towards applying the enforcement piece within the BEP Act and in the Executive Order (when vendors are not being utilized). She stated the Compliance Subcommittee will use the relationship as a strategy to ensure working in the best interest of vendors being certified and working with the State.

Chair Roberts also addressed concerns relating to attendance at subcommittee meetings and the importance of reaching quorum.

Chair Forde recognized the attendance of Mr. Edward McKinnie.

VII. Old Business

Acting Secretary Glavin thanks the Council for their support on his appointment.

- Update on Utilization Plan

Acting Secretary Glavin thanked Member Ratner for the endorsement. He commended Member Roberts for her update on the status of the Utilization Plan. He stated his appreciation for comments from Chief Procurement Officers who received the plan. He announced a future collaborative meeting for the final resolution of all comments made. Acting Secretary Glavin also agreed to Member Roberts's requests for the Utilization Plan.

- Update on the Data-Sharing and Usage Agreement

Agreement has been signed. Member Roberts asked whether agreement will include specific information on subcontractors, different contracts, etc. Acting Secretary Glavin responded that it includes all certified vendors in the system including eligible primes as well as subcontractors.

Member Roberts asked how we are utilizing Comptroller's Office to send information, regarding payment status, to the B2Gnow system. Acting Secretary Glavin clarified that the concern was regarding being able to match up Comptroller payments to prime contractors and subcontractor reports of payment by prime contractors. He will work with BEP compliance staff to determine how much data BEP is receiving (through B2Gnow) and will report back either by meeting or email.

Chair Forde clarified hearing a question of compliance and how data is being used. Chair Forde requested the Comptroller's Office provide a report of the office's intention with the data.

➤ Update on the One-Pager

Acting Secretary Glavin asked for anyone interested in contributing to the one-pager as a marketing tool for the Council to please reach out to him.

➤ Update on Obama Energy/Wesco Contract

Acting Secretary Glavin has been in communication with Obama Energy, Wesco, and the universities to try to bring together a resolution. He has drafted a form of ADR (Alternative Dispute Resolution), or an informal mediation, for all parties to come to the table in a structured meeting format. The first meeting will take place in July. Acting Secretary Glavin will provide an update at the next full Council meeting.

➤ Update on the Internet Egress RFP

Acting Secretary Glavin said DoIT (Department of Innovation & Technology) has been working diligently on the solicitation. He stated being in communication with General Counsel for DoIT, Margaret Van Dyke, and other members of DoIT who are mindful of the goals, aspirations and achievements of such a contract while keeping policies in mind as solicitation is finalized.

Member Roberts asked how DoIT is receiving services they indicated as critical two years ago. She asked what procurement is being utilized, if they are extending old contracts, and whether minorities and women being utilized. Acting Secretary Glavin requested time to gather status information from DoIT and provide it to the Council via email prior to the next Council meeting.

VIII. New Business

➤ Role of Minority Businesses and New Marijuana Legalization Laws

Member Barreto asked the Council to keep the role of minority businesses and new marijuana legislation on the radar. She stated the business aspect as being a part of how equity-focused the legislation is. Chair Forde stated the importance of outreach and education to the Council and from that purview provide a one-pager summarizing the bill and points-of-contact. Member Eng requested a one-pager for the new gaming legislation as well. Member Matthews voiced concerns that these two new opportunities (marijuana and gaming) have barriers to entry based on capitalization, investment, and partnerships and she urges the Council to do something about it. Member Roberts stated the importance of the Council's oversight of compliance within these industries' contracts as well as clarification on certification. Member Champion offered to provide an update from the Department of Commerce & Economic Opportunity as a cannabis office will stem from that agency.

IX. Sheltered Market

DoIT has been active in working with CMS on trying to identify opportunities to implement certain sheltered market solicitations within their scope of work and mission. Acting Secretary Glavin said he will provide a future update.

Member Roberts requested a formalized process where the Council can review data so that Council may help strategically implement new sheltered markets. Acting Secretary Glavin said he will work with Member Roberts to gather data from BEP to bring before the Council. Member Sharron suggested additional expertise to the BEP Compliance Unit.

Chair Forde informed the Council that DoIT will be hosting their Supplier Day on July 17, 2019 at the auditorium in the Thompson Center.

X. Public / Vendors' Testimonies

- Mr. Marc Hobson, a native Chicagoan and minority veteran, moved to Las Vegas last year to break into the cannabis industry. He said the state government needs to be transparent going forward with cannabis. He stated issues with licensing in Nevada involving corruption and it consequentially affecting minority business owners. He stated, "If you want to keep tax dollars flowing and business flowing it has to be situated where everyone has an equal opportunity to get in. This industry is new, it's vast and it's multi-billion dollars... I want you guys to remember that when you're looking into this because we'll be shut out."
- Mr. Patrick Thompson is from Champaign, Illinois and has a business that specializes in concrete, demolition, and estimation. Mr. Thompson recounted a situation regarding a University of Illinois project. A protest was filed (by the general contractor) based upon the low bidder not meeting the 20% goal. It was responded with good faith efforts, and the CPO said to the general contractor that it was his understanding that the BEP Council has not established a set-aside in the construction area for BEP certified vendors. No set-aside was made as part of this solicitation. The CPO also stated these are aspirational goals and not required goals. Mr. Thompson also filed a protest because he submitted proposals to the low bidder awarded the project and said he was denied. He said the CPO stated to him that he did not have a direct contract with the owner (University of Illinois). The CPO also stated the project manual suggests no consequence to the vendor for failure to achieve diversity participation. Mr. Thompson stated in his testimony, "Based upon my years of being in construction, these policies and these practices is discriminating towards me and other minorities." Mr. Thompson asked what the Council's plans were for BEP firms to have direct contracting with the state agency on construction projects. Mr. Thompson asked about the number of approvals and denials on "good faith efforts". He asked if there is a formal process in place to file a complaint to the BEP Council and whether complaints are transparent to the public.

Acting Secretary Glavin appreciated Mr. Thompson's testimony as a step that informs the Council of the situation. He reiterated Chair Forde's comments summarizing the steps that are being taken to put processes into place: The Council begins at hearing testimonies; making recommendations; and having a formal process to address the situation through certain remedies including contract termination among others. Acting Secretary Glavin encouraged Mr. Thompson to follow up with him so that he may learn more as a process is developed.

Chair Forde added that the Council is aiming towards a process that is not completely reliant on one individual's efforts to attend a meeting and provide testimony. Mr. Thompson reiterated his question to the Council regarding the Council's abilities to provide subcontractors with direct contracts with agencies. He clarified that he was not talking about becoming a prime but creating a different relationship. Chair Forde encouraged Mr. Thompson to connect with Acting Secretary Glavin while being mindful of the meeting time remaining.

Member Roberts added that the law states all CPO's should be posting their waivers on their higher education board. She suggested that is something that the Council can ensure.

- Mr. Terry Miller is Chief of Diversity of the Illinois Tollway and attended the meeting to let the Council know they have an advocate at the Illinois Tollway. Mr. Miller stated seeing similarities in the challenges both agencies face.
- Malcolm Weems, is the BEP certified business owner of Weemsway Consulting, LLC. Mr. Weems asked if the process has changed regarding BEP approving or denying contracts going forward through the procurement process based on them not making good faith efforts related to the BEP goals. Mr. Weems echoed concerns regarding state agencies using firms without any BEP certified vendors' participation. Mr. Weems's has heard talk from people that think BEP contractors should have their own specific contract since being a "BEP partner" is part of a prime contractor's bid. Mr. Weems restated his concern as wanting to know what the process for allowing procurement to move forward without meeting BEP goals.

Member Doria asked for clarification on his suggestion for a BEP contract if those in "sub" capacity already have a contract with the prime vendor. Mr. Weems clarified that the suggestion was to change the procurement process so that any vendor listed in the Utilization Plan has a contract for their work protecting BEP certified subcontractors.

Chair Forde commented not being aware of any policy change since the previous administration. She restated the importance of doing enough of the compliance work so that it is credible.

Member Doria added that not every single contract has a goal and that it is on a contract-by-contract basis. There is a process to determine whether there is a goal or not. She also added many council members participated in a Government Procurement Compliance Forum where good faith efforts were discussed. A process was developed in which every single agency agreed to abide by in reviewing good faith efforts.

XI. Adjournment

Meeting adjourned at 2:47 p.m.

- Next Subcommittee Meetings
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 - Outreach Subcommittee Meeting – July 23rd, 2019
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