

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

MONTHLY COUNCIL MEETING MINUTES

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

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

Monday, June 25, 2018- 1:30 PM

COUNCIL MEMBERS IN ATTENDANCE

Hedy Ratner, Sharla Roberts, Ben Jones (Tim McDevitt), Beth Doria, Larry Ivory, Derrick Champion, Emilia DiMenco, Denise Barreto, Edward McKinnie, Jesse Martinez, Karen Eng, Khari Hunt

COUNCIL MEMBERS NOT IN ATTENDANCE

Sheila Hill-Morgan, Alex Bautista

COUNCIL CHAIR

Ben Jones, Acting Chairman

COUNCIL SECRETARY

Cate Costa

CMS STAFF IN ATTENDANCE

Elias Ricks Ngwayah II, Harry Reinhard, Carlos Gutierrez, Irma Lopez, Leslie Taylor

OTHERS IN ATTENDANCE

Albert Cartharn, Mark Iacoponi, McLane Lomax, David Lockman, Thomas Bowling, Linda Compos, Lisa Campos-Manfort, Juan Marado, Craig Holloway, Tara Washington, Matt Boyle, Charles Avery, Richard Flynn, Matt Brown

**PUBLIC NOTICE
STATE OF ILLINOIS**

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

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

401 S. Spring St.
Room 500 1/2
Springfield, IL 662706

AGENDA

June 25, 2018
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 23, 2018
- V. Chair's Report
- VI. Subcommittees Reports
 - Certification Subcommittee Report – Chair Sharla Roberts
 - Outreach Subcommittee Report – Chair Emilia DiMenco
 - Compliance Subcommittee Report – Chair Sharla Roberts
- VII. Old Business
 - Open Access ERP
 - JCAR Sheltered Markets Rules Update
 - DOIT Contract IPB #22040811 Status
 - Utilization/Compliance Plans
- VIII. New Business
 - Robert's Rules of Order
 - Executive Order 2018-17
 - HFS Utilization Plan Proposal
 - Pending Legislation
 - Speakers for Full Council
 - Appeal: Nayyar & Nayyar International, Inc.
 - Appeal: Campos Construction, Inc.
 - Appeal: Roofing Associates LLC DBA Meyer Roofing
- IX. Public/Vendor's Testimony
- X. Adjournment
 - Next Subcommittee Meetings
 - Certification Subcommittee Meeting – July 23, 2018
 - Outreach Subcommittee Meeting – July 24, 2018
 - Compliance Subcommittee Meeting – July 25, 2018
 - Next Council Mtg. – August 27, 2018

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>

I. Welcome

Acting Chair Jones welcomes all and introduced himself as the new Assistant Director for CMS replacing Mr. Amiel Harper.

II. Call to Order

Acting Chair Jones called the meeting to order and requested a roll call.

III. Roll Call

Roll call conducted by Secretary Costa and quorum was established.

IV. Approval of Minutes

Approval of Minutes was established.

V. Chair's Report

Acting Chair Jones talked about implementing changes to the way the meeting is conducted by utilizing roll-call votes and approving things by consensus. He said several members have asked for training in Roberts Rules of Order and said that will be done in the future. Acting Chair Jones also informed the Council that the Sheltered Market rules were passed by JCAR. He said the next step will be to file with the Secretary of State after which a copy would be given to the members. Acting Chair Jones told the Council that he had a meeting with DOIT, and that they are building a website for the Fair Practices in Contracting Task Force. He said instead of sending large files to members for appeals, DOIT is working on creating a format whereby a link with the information would be sent out instead.

Acting Chair Jones explained what the Fair Practices in Contracting Task Force for African Americans is about. He said the Task Force is tasked with investigating and proposing solutions to improve contracting for African Americans. He talked about improvement in the certification processing time and thanked Secretary Costa for her hard work. He said the certification turnaround time is 15 days. He said he is working with the Comptroller's office to speed up payments for vendors.

Member Roberts urged Acting Chair Jones to investigate advance payment that is part of the Act. Acting Chair Jones explained some of the things he would like to do during his time as Assistant Director. These include easy information exchange, expansion of the vendor database, and increasing the spend. Member Roberts asked that the agenda for the BEP Council be sent out at least 5 days before the meeting to give her ample time to meet with her coworkers within the staff at the university system.

Acting Chair Jones told the Council that his replacement for the position of BEP Legal Counsel will be starting on August 1, 2018. He said in the interim,

he will be wearing two hats as Legal Counsel for BEP and as Assistant Director for CMS. He also informed the Council that CMS General counsel, Ryan Greene will be leaving CMS for a position as Chief of Staff for Chicago State University.

VI. Subcommittees' Reports

Certification Subcommittee: Chair Roberts said the Certification Subcommittee had a meeting on Tuesday, May 29, 2018 during which time four vendors appealed the denial of their certification applications. She said one was overturned and the other three denials were upheld.

Outreach Subcommittee: Chair DiMenco said the Subcommittee met and discussed 4 areas pending legislation. She said they discussed the executive order that was issued on May 11, 2018; additionally, they discussed SB2365 which is still in the amendment stage; Speakers for the Full Council; and vendor payment.

Compliance Subcommittee: Chair Roberts said the subcommittee met on Thursday, May 31, 2018 and did not have a quorum. They discussed rules and regulations for the implementation of the Business Enterprise Program; Utilization Plan; and the Compliance Plan. She also talked about annual and bi-annual reports.

VII. Old Business

Open Access ERP

Acting Chair Jones talked about the new procurement system scheduled to be implemented across the State starting on July 1, 2018. He said according to his understanding, it would be revolutionary in terms of contracting with the State.

JCAR Sheltered Markets Rules Update

Acting Chair Jones said they had a JCAR Hearing and there were no objections to the rules. Therefore, according to him, they passed and is now pending filing with the Office of the Secretary of State. He said they will be working with a researcher that CMS has contracted with to do some internal research and will be looking at the utilization and availability of different NIGP Codes and identifying where there are areas for additional sheltered markets. He said this will happen within a couple of weeks. He also said one of the things he wants to do is to review the rules for consistency with the Act. He cited the definition for Hispanic and Latinos are different in both the Act and the JCAR.

DOIT Contract IPB #220408811 Status (Internet Egress)

He said the contract was taken off the street and re-reviewed. A 20% goal was placed on the contract and it is expected on the street in July 2018.

Utilization/Compliance Plan

Secretary Costa said they are reviewing the utilization plans and have received a lot of feedback from the subcommittee and the CPOs. She said they are working to make it clearer, accessible, and knowing the consequences of not abiding by what you are supposed to do within the form.

VIII. New Business

Robert's Rules of Order

This was skipped because it was addressed in the Chair's report.

Executive Order 2018-17

Acting Chair Jones told the Council that on May 11, 2018 the Governor signed an Executive Order establishing the Fair Practice in Contracting Task Force for African Americans. He said the Executive Order requires certain things to be approved by the Council. He said one of them is the guidance memo that is given to the agencies to comply with the Executive Order. He said another has to do with the contractual language regarding BEP.

Member Roberts said the Guidance Memo seems to be agency specific whereby the BEP Act is not agency specific. She said she wants to make sure it was applicable to the university system. She said the General Services rules might be slightly different from the Higher Education rules. Acting Chair Jones said he agrees with what she is saying.

Member DiMenco recommended that the reporting be detailed enough.

Member Ivory acknowledged that the Secretary and the Directors will be the decision makers relating to whether or not they are out of compliance but urged that there be checks and balances.

Member Barreto talked about the need for more objectivity and transparency.

Member Doria recommends tabling this debate because there is a lot to cover on the agenda.

Vote on Guidance Memo was as follows:

Members Roberts and Ivory recommended that the Council vote on the Guidance Memo and get it passed.

Member Eng motioned that the Guidance Memo be approved subject to the amendments previously discussed.

Vote taken by roll call: Larry Ivory (approve); Derrick Champion (approve); Beth Doria (approve); Jesse Martinez (approve); Denise Barreto (approve); Hedy Ratner (approve); Emilia DiMenco (approve); Sharla Robert (approve); Tim McDevitt (Ben Jones – approve); Karen Eng (approve); Khari Hunt (approve); Sheila Hill-Morgan (absent); Edward McKinnie (absent); Alex Bautista (absent). Motion passes.

Vote on the Contractual Language was as follows:

Member Eng motioned that the contractual language be approved.

Vote taken by roll call: Larry Ivory (approve); Derrick Champion (approve); Beth Doria (approve); Jesse Martinez (approve); Denise Barreto (approve); Hedy Ratner (approve); Emilia DiMenco (approve); Sharla Robert (approve); Tim McDevitt (Ben Jones – approve); Karen Eng (approve); Khari Hunt (approve); Sheila Hill-Morgan (absent); Edward McKinnie (absent); Alex Bautista (absent). Motion passes.

HFS Utilization Plan Proposal

Acting Chair Jones informed the Council that Kim McCullough from the Department of Health and Family Services sent a proposal regarding vendors that wanted to get Good Faith Efforts waivers would have to also look at non-profits that had a staff over 51% minority.

Kim McCollough explained that this proposal is outside of the BEP Good Faith Efforts waiver process. She said it is more of an addendum. She said once the BEP Council and CMS personnel have gone thru good faith efforts review with any contractors only in the Behavioral and Physical Health state, and it is agreed that there isn't a BEP for-profit entity that is available to provide the services, the HFS would accept any non-for-profit organization that provide only behavioral health and physical health services as a show of good faith in the spirit and intent of the BEP program. She said the numbers will not be counted as a part of BEP, but there will be a separate report that will be provided with respect to not-for-profit organization population that shows enterprises that provide economic impact and benefits to minority communities are having an opportunity to receive some economic benefits from state dollars.

Member Roberts asked if copies of the proposal were made available to the Council. Ms. McCollough said she did provide a copy of the proposal to

CMS. Acting Chair Jones said there were some changes being made by the Office of the General Counsel. Ms. McCollough said she sent the documents over to Acting Chair Jones for distribution to the Council.

Pending Legislation

Secretary Costa said there is some pending legislation, including SB2365 which would impact BEP. She said it did not make it through this past session, but she expects it to come up next session. She said it is about making sure companies were valuing diversity across an array of metrics. She said it will make vendors ineligible for renewal if they fail to meet their BEP goals.

Speakers for Full Council

Secretary Costa said they are reviewing data to see how agencies are doing and then these agencies will be called to come before the Council to explain these data. She also invited the Council to decide if there was any agency they wanted to come before the Council.

Member DiMenco said as we investigate the payments issues, the Comptroller's Office should be invited to appear before the Council.

Member Ivory said it has been 6 years since the commissary contract was discussed. He said the Department of Corrections needs to be invited back to the Council to explain what the strategy is.

IX. Public/Vendor's Testimony

Hurt Stokes, owner of the Affluent Group, talked about the lottery contract. He said it is the biggest opportunity for minority and women owned businesses in the State of Illinois. He said it is over 2 billion dollars of spend. He said if a 20% goal is placed on it, it would be over 400 hundred million dollars of opportunities for minority and women owned business in the State of Illinois. He said he realized that the contract is with a company that is not even in the State of Illinois nor the United State of America. He said minorities and women spend a lot on the lottery and none of that money is benefiting them. He said his aim is to provoke a conversation about this issue.

Acting Chair Jones said a lot of the 2 billion dollars being spoken of is prize money. He said that money is exempt because it goes into a school fund. He said there is a goal on the services provided such as their marketing, ticketing printing, freight, in addition to the goal that the lottery has, they are supposed to meet 20% through Illinois lottery procurement as an agency.

Member Roberts recommended to the Council that this issue of the lottery be tabled. Motion made by member Doria. It was seconded by member Ratner. Vote taken, motion passes.

Thomas Bowling, CEO, Obama Energy Corporation, said he is concerned with RFP # 2042619 that went out without a goal on it. He said it is about the LED lights. He also said the country is moving to smart LED lights and the State is going for an out dated light. He was wondering whether the RFP could be modified or amended. Acting Chair Jones said they will look into that RFP.

Member Ivory is wondering what can be done immediately to stop this RFP before it is too late because there seems to be qualified firms and there is no goal. Acting Chair Jones said they are going to look into it right away.

Jamaal Jackson, CEO, Jackson Corporate Law, said he sees a lot of solicitations with little or no goals especially as it relates to legal services. He said since December 2017, there have been a couple of solicitations with less than 10% goals. He cited as examples the Illinois Math and Science Academy solicitation #19000 has a 5% goal; Tollway Bond solicitation has a 0% goal; SIU Multi-Media Rights solicitation has a 0% goal; SIU solicitation # L121817 for intellectual property was initially issued without a goal but after he inquired why that was done, it was changed to 20% goal; the University of Illinois at Chicago contract that was renewed solicitation # 1TLC1601 which was originally awarded in 2015 and had 0% goal. He said the result is that out of 23.8 million dollars in awarded contracts, 1.6 million dollars went to BEP firms. He explained that the BEP Act states that any solicitation that was awarded before the Act came into effect in August 2017, should be reviewed upon renewal to see if it was feasible to add goals. He said he had reached out three times to the person listed on the solicitation but have not heard back from them. He requested that there be a BEP goal added to the renewal to begin July 1st. He also urged a better oversight enforcement. He said one of his biggest issue is that it is a lot easier to find a waiver application than to find a list of BEP qualified vendors. He noted that according to the BEP Act, if the experience requirement of a BEP vendor is an impediment to being given a fair shot, it can be waived. He said that needs to be addressed because it would give firms like his and other BEP vendors a lot of opportunities.

Member Roberts asked that Mr. Jackson puts all those things in writing so that they can be addressed. Lastly, he said it is a problem that no BEP firms are awarded contracts as primes.

Michelle Flagg, CEO, Redacre Solutions, talked about the Tollway legal solicitation for Bond Counsel had 0% goal. Secretary Costa said she did reach out to the Tollway and inquired the 0% goal and their response was that per statute the Tollway Attorney is the Illinois Attorney General, which is a constitutional office exempt from the BEP Act, an outside Counsel must be appointed by the Attorney General as Special Assistant Attorney General so that did not allow for a BEP goal.

Charles Harrell II, CEO IT Architect, commended CMS for their transparency. He talked about DOIT RFP #22042653 that have been on the street since June 6, 2018 and there is no goal on it.

Michelle Flagg, CEO Redacre Solutions, also said she attended the Illinois Black Chamber of Commerce Lobby Day. She said the Chief of Staff for IDOT fell ill and the meeting was cut short, therefore, their issues were not addressed. Ms. Flagg encouraged the council to reach out to IDOT with regards to having IDOT participation. Ms. Flagg also informed the Council of RFP # 22040782 that is on the street but has no BEP goals. It is an Illinois Tollway RFP.

Acting Chair Jones said the slot for IDOT on the Council is currently not filled and that the Secretary is working on filling it. He also talked about the Fair Practices in Contracting Task Force working toward addressing the lack of African American contracting.

Ben Bagby, CPO for Higher Education, wants to know whether any of the subcommittees discuss the Sheltered Market rules in any of their committee meetings. Member Roberts said the Compliance Subcommittee had discussed it. He said the reason he asked was because at the House State Government Committee hearing, Member Ratner said the CPO Office had resisted Sheltered Markets. He reminded the Council that he had issued the first Sheltered Market after the disparity study was issued. He said they have been waiting for the rules. He urged the Council to have a meeting with the CPO to get a better understanding of where they stand.

Acting Chair Jones said the rules are going through the second notice process and they are working with those who presented comments and questions.

Closed Session:

Member Barreto motioned that the Council be moved to closed session. Member Roberts seconded the motion. Vote taken, motion passes.

Executive Session

The Council deliberated on all three appeals: Nayyar & Nayyar International Inc.; Campos Construction, Inc; and Roofing Associates, LLC dba Meyer Roofing. After deliberations, a motion was made by member Eng to get out of closed session. The vote was taken, and the motion passes unanimously.

Open Session:

Member Eng motioned to overturn the denial for Nayyar & Nayyar International, Inc. Member Doria seconded. Vote taken, motion passes.

Member Eng motioned to overturn the denial for Campos Construction, Inc. Member Martinez seconded. Vote taken, motion passes.

Member Eng motioned to uphold the denial for Roofing Associates, LLC dba Meyer Roofing. Motion seconded by member Doria. Vote taken, motion passes.

X. Adjournment

Member Doria motioned for adjournment. No objections, motion passes.