

**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, December 12, 2016- 1:30 PM

COUNCIL MEMBERS IN ATTENDANCE

Larry Ivory, Kim White (Ph), Jesse Martinez, Hedy Ratner (Ph), Emilia DiMenco, Sharla Roberts, Cate Costa, Charisse Witherspoon, Karen Eng, Michael Hoffman, Khari Hunt, Beth Doria (Ph), Sheila Hill Morgan, Edward McKinnie, Denise Barreto

COUNCIL MEMBERS NOT IN ATTENDANCE

Samantha Hufnagel, Susan Shaw, Erin Aleman

COUNCIL CHAIR

Michael Hoffman, Chairman

COUNCIL SECRETARY

J. Marcos Peterson

CMS STAFF IN ATTENDANCE

Elias Ricks Ngwayah II, Carlos Gutierrez, Ben Jones, Harry Reinhard, Leslie Taylor, Irma Lopez, Jeanetta Cardine

OTHERS IN ATTENDANCE

Shirley Webb, Mark Hardy, Patrick Thompson, Joe Kim, Van Austin, Ben Bagby, Charles H. Harrell Sr., George Medellin III, Eric Akines, Charles Harrell II, Dale Morrison, Ed Burns, Kevin Davis, Marcus Yancy, Avkeitha Monroe May

**PUBLIC NOTICE
STATE OF ILLINOIS**

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

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

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Room 500 1/2
Springfield, IL 62706

AGENDA

December 12, 2016
1:30 p.m. – 3:30 p.m.

- I. Welcome
- II. Call to Order
- III. Roll Call
- IV. Approval of Minutes of Council Meetings held on October 24, 2016
- V. Chair's Report
 - BEP Staff Through Rapid Results Training
- VI. Posted Business
 - Three (3) subcommittee's Description
 - Begin discussion of approving industries to be declared Sheltered Markets via the Disparity Study
- VII. Old Business
 - Discussion on Curing
- VIII. New Business
- IX. Public/Vendor's Testimony
- X. Adjournment
 - Next Council Mtg. – February 27, 2017

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

Secretary Peterson welcomes all.

II. Call to Order

Secretary Peterson called the meeting to order at 1:35pm and proceeded with roll call.

III. Roll Call

Roll call conducted. Quorum was established. Voting held to allow members on the phone to participate in the meeting. Motion passes.

IV. Approval of Minutes

Approval of Minutes was established.

V. Chair's Report

Chair Hoffman informed the council about Secretary Peterson quest to improve the professionalism of the BEP staff via a state training program called Rapid Results. He invited the council to the presentation of the various groups in the training which will be held on January 10, 2017. Secretary Peterson and member Hunt gave brief overview of the training.

VI. Posted Business

Committees

Secretary Peterson talked about the formation of the three subcommittees. He said they were based on tasks which derived from the Executive Order from the Governor. He said toward the latter part of the meeting, members will be allowed to select one or two subcommittees they would like to serve on. He said serving on three subcommittees will not be allowed as it will be too burdensome for one to function efficiently. He named the contact persons within BEP that will be working with the various subcommittees as Harry Reinhard (Compliance Manager), Carlos Gutierrez (Certification Manager), and Irma Lopez (Outreach Manager).

Member Martinez asked whether the Secretary had thought about channeling the waiver request committee. Member Roberts said she thinks it should fall under the Compliance Subcommittee. She also recommended that Enforcement be included under the Compliance subcommittee.

Chair Hoffman said what he would like to see once folks self-select their committees is that at the various subcommittees' meetings before the next council meeting, they would get together and figure out what they think their role really is by reviewing the Act and the Rules. After that the groups will report to the council and overlapping of responsibilities will be adjudicated.

Member Roberts asked whether the Chair had reached out to the Comptroller's office regarding the \$15.00 fees collected from every contract for outreach to see how we can collaborate on some of these outreach initiatives. Secretary Peterson said we did reach out to them in the past, but because of the change of administration within that office we have not yet contacted the current administration. Member Roberts asked that we reach out to the Comptroller's office before the next meeting so that we have a plan to present to the council by the next meeting. Chair Hoffman said he wants to give them some breathing room before reaching out to them because they are new and need to understand the operations of the office. He said he plans to give them at least 30 days of early January before reaching out to them. He also plans to invite them to the meetings. Member Barreto proposed that when reaching out to them we should let them know what all we need instead of doing it piecemeal.

Chair Hoffman praised the council for having a quorum in four successive meetings. He said it was impressive.

Sheltered Market

Regarding the RFP for Sheltered Market, the Chair said the RFP was out there and submission was required by last Friday. He said it was drafted based on the policy memo that was drafted because there are no rules that was approved through the JCAR process. He further said we now have some rules which will be given to the council for their review and feedback before being submitted to the Joint Commission on Administrative Rules (JCAR). Additionally, he said CMS has engaged an outside legal counsel to strengthen our argument about why we believe Sheltered Market is necessary. Lastly, he said part of the legal opinion is what we can move forward with right now. He said we know can move forward with the IT sector partially based on the disparity study that was revealed this past January and also a more detailed IT specific disparity study that was done in 2013. He said we want to make sure we have the fidelity of data on the disparity study so any sheltered market instituted would be able to stand legal challenge.

Member Ivory said even though we are moving in the right direction, we still have a lot of work to do. He said it is important to celebrate our success with the sheltered market.

Member Roberts want to know where the rules are currently. Chair Hoffman said the rules are in CMS legal department and he will make sure they are sent out in order to give the council ample time to review and give feedback.

VII. Old Business

Secretary Peterson invites Harry Reinhard to the table to talk about Curing. There was a memo that was put together but never distributed to the council. Chair Hoffman urged copies to be made and given to council members.

Member Roberts said she met with the universities and they do curing differently from the way CDB does curing. Member Martinez said CDB curing starts from bid opening. He further said they are receiving submittals from bad actors that are completely blank and they are using those ten days to go and seek partners. He said in order to discourage bad actors, the clock starts at bid opening.

Chair Hoffman wants to know from member Martinez how often they observe vendors trying to manipulate the system. He said this is a new phenomenon and that he had observed this with about 10 vendors out of 50 submittals.

Member Barreto said she knows what Jesse is talking about because she receives calls from those people after they have submitted their bids. She is against the council doing anything more than what is being done. She wants it left to the agencies because they know those vendors that do these things.

Chair Hoffman said that conversations need to be had with repeat offenders.

Member Ivory said we all need to be on the same page in dealing with this issue. He said this is intended to prolong procurement which is the opposite of what the Governor had said he wants to do.

Member Roberts wants to know the definition of “cure”. Counsel Jones said the statute talks about “deficiency” and that the language was written poorly. He further said it would require a legislative amendment or knowing who those bad actors are and responding accordingly.

Member Martinez wants to know whether the council is comfortable with the curing starting at the time of bid opening when the vendor is informed of deficiency.

Member McKinnie wants to know why it is not non-responsive when a vendor submits an empty bid.

Counsel Jones said for bid purposes it is non-responsive but for bid opening it is “deficient”. He further said the law said if there is deficiency then we have to give them the opportunity to cure it.

Member Doria said we should have a designated working group that will be charged with doing an amendment to the bill.

Chair Hoffman said this issue should be given to the Compliance sub-committee who will go over this issue and get back to the council at the February 2017 council meeting.

Counsel Jones said he is willing to work with the subcommittee regarding this issue and he also has some alternative language that he had proposed that could be used.

Member Eng wants to know whether this group handling this issue should be a special task force even though it has been put in the compliance subcommittee. Chair Hoffman it could be a task force with the Compliance sub-committee.

Mr. Reinhard told the council to be aware that what member Roberts does and what member Martinez does is a different world from what BEP does.

VIII. New Business

Member Roberts said the universities wants to know why a large volume of their vendors being rejected. She wants to know if this was a system issue. Mr. Gutierrez believes the new system operates in real time unlike the old system so it might be the reason so many rejections are seen.

Mr. Reinhard believes there could be another reason for this increase in rejections. He said the list that was sent to the agencies included CTA, Pace, Metra, and other sister agencies along with CMS vendors. Therefore the APOs for those agencies did not separate the sister agencies listing from BEP listing so this led to lots of rejections.

IX. Public/Vendor's Testimony

Charles Harrell II, CEO of The IT Architect Corp. talked about the Verizon wireless cellular services and equipment contract. He said December 21, 2015 he participated in a pre-bid conference call related to this opportunity as the only BEP certified vendor on that call. Primes were AT&T, Verizon, and Sprint. He said he submitted his letter of intent. The award was made in March of 2016 and Verizon won the bid along with AT&T coming in second. Mr. Harrell read into the record a letter that was written to Chair Hoffman to request an investigation into the contract which was fully executed on October 3, 2016 under false pretenses and misrepresentation by Verizon regarding its utilization of BEP firm in order to meet the BEP goal of 5%. The letter states that based on the above the contract should be amended immediately to include my firm's participation as included in Verizon's response. He said his firm was replaced by another firm in an unfair manner. He claimed he had been in communication with CMS from May 17, 2016 to September 23, 2016

during which time he was assured CMS would communicate with Verizon regarding this issue. He ended by requesting that this contract be amended to include his firm in this 92 million dollars contract.

Chair Hoffman responded by saying upon receipt of his letter an inquiry was launched immediately by CMS. Currently, CMS legal is handling that investigation. He however said CMS will take an in-depth look into the situation and see whether all applicable procedures were followed and if not take corrective action to remedy the situation.

Member Roberts wants to know how despite the disparity study we came up with the 5% goal for this contract. She wants to know why it was not higher.

Chair Hoffman said he did not have the details on this contract but will be happy to have the program staff personnel look into it.

Member McKinnie said if Mr. Harrell had a letter of intent from Verizon before the award why is it that during the award his company was not included. Chair Hoffman said this is an open inquiry that is being looked at currently and asked for patience as they investigate this matter.

Member Roberts wants a timeframe to get back to the council regarding Mr. Harrell's complaint. Chair Hoffman said it would be as soon as possible. He further said this week an update would be sent to Mr. Harrell regarding this matter and if plausible share with the whole council.

Mr. Patrick Thompson, President of VEYA Inc., an MBE firm operating out of Champaign, Illinois. His company is a construction company and he operates as a general contractor. Mr. Thompson wants to know the status of the roll out of the target market or set-aside for construction based upon the executive order of the Governor. He said his primary goal as an MBE was to grow and compete with the larger firms. However, he hardly sees any State set-aside.

Mr. Thompson further said he had attended a program with the universities and one of the attendees at that program made the comment that it is better that we have a set-aside program than a mentor protégé program. He said most of the large firms see them as competitors on smaller projects.

Secretary Peterson asked Mr. Thompson whether he was talking about the Small Business Set-Aside program or the Sheltered Market. He said the Small Business Set-Aside is not BEP focused and the Mentor Protégé program as in the Tollway has not been fully developed yet.

Mr. Thompson said he was just basing it on the executive order from the Governor talking about target market and sheltered market. He said he was

talking about some kind of market that could be allowed in the BEP program that would allow them to bid on smaller projects as general contractors.

Secretary Peterson said it would be best for him and Mr. Thompson to exchange information and go over this together so that he can answer any kind of questions he might have.

Lastly, Mr. Thompson wants to know how CMS establishes nationality and race for the owner of a company. Secretary Peterson said it is according to the federal guidelines.

Counsel Jones said we use your birth certificate.

X. Adjournment

Secretary Peterson motioned for adjournment. Member Roberts seconded. Vote taken and motion to adjourn passed. Meeting adjourned at 3:05pm.