



Business Enterprise Program Council
COMPLIANCE SUBCOMMITTEE MEETING

Monday, February 11, 2019
1:30 pm – 3:30 pm
James R. Thompson Center
100 W. Randolph Street, Suite 4-404
Chicago, IL 60601

SUBCOMMITTEE COUNCIL MEMBERS IN ATTENDANCE

Sharla Roberts, Beth Doria

SUBCOMMITTEE COUNCIL MEMBERS NOT IN ATTENDANCE

Edward McKinnie, Sheila Hill Morgan, Larry Ivory, Denise Barreto, Jesse Martinez

Staff Assistant

COUNCIL SECRETARY

N/A

CMS MEMBERS IN ATTENDANCE

Ben Jones, Elias Ricks Ngwayah, Terrence Glavin, Harry Reinhard

OTHERS IN ATTENDANCE

N/A

In accordance with the Illinois Open Meetings Act (5 ILCS 120) and the
Freedom of Information Act (5 ILCS 140) the above meetings are open to the public
BEP Council Compliance Subcommittee



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Monday, February 11, 2019

1:30 pm – 3:30 pm

Room 4-404 JRTC

Via Teleconference Number - 888-494-4032

Access Number - 2587213722

AGENDA

- I. Welcome
- II. Call to Order
- III. Roll Call
- IV. Posted Business
 - Approval of Minutes for the November 28, 2018 Subcommittee Meeting
 - Update on Utilization Plan
 - Amend Administrative Rules to add Compliance
 - Add BEP language to State Contracts
- V. Define Action Items
- VI. Suggestions for BEP Council meeting agenda item(s)
 - Next Council Meeting – February 25, 2019
 - Next Subcommittee Meeting – March 27, 2019
- VII. Public / Vendor Testimony
- VIII. Adjournment

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I. Welcome

Chair Roberts welcomed all to the BEP Compliance Subcommittee Meeting.

II. Call to Order

Chair Roberts call the meeting to order and requested a roll call.

III. Roll Call

Roll call conducted and no quorum established.

IV. Posted Business

- Approval of Minutes for the November 28, 2018 Subcommittee Meeting

Approval of meeting minutes suspended due to lack of quorum.

- Update on Utilization Plan

Chair Roberts said she understands that CMS has been working on it, but she wants to put a deadline on having it finalized or submitted. She said it's been like a year or two years. She further said the Utilization plan is the only thing in the Solicitation that tells the standard about the State of Illinois Business Enterprise Program. She said several laws have been changed and as council members, she wants them to have the most updated information on things that are submitted to the public about rules as it relates to the program.

Chair Roberts said other programs such as the County and the City of Chicago have in their solicitation general conditions unlike the State of Illinois. She expressed her desire to create some uniformity.

Counsel Glavin told the subcommittee that they have completed extensive revisions of the document after several meetings and several versions. He said they now have what they believe is the final Utilization Plan version which has been sent to the



Communication Office for formatting. He believes the document will be delivered sometime this week.

Chair Roberts wants to know if this document is in PDF fillable form with drop-down boxes. She said usually there are problems with printing these forms without instructions. Assistant Director Jones said it is a fillable form and that they specifically address that issue by making the field expand if they need to add more room. He also said they made some sensory revisions. In terms of best practices, he said they would look at what the City and County do.

Counsel Glavin said during their discussion about the Utilization plan, the best practices from the City of Chicago and the County were part of their conversation.

Assistant Director Jones said that by the next Full Council meeting, the Utilization will be sent out to members for their review.

- Amend Administrative Rules to add Compliance

Chair Roberts wants the same way Certification procedures are put in rules, some of the standard things that we do as it relate to Compliance, should be put in rules.

Assistant Director Jones said he agrees with Chair Roberts proposal. He said the challenge with be that the City has one procurement office and is centralized as compare to the State that is not centralized and have different offices.

Member Doria said the final objective is to get uniformity as much as we can. She said our goal is to all the agencies and universities to do it in the same format.

Chair Roberts would like to have uniformity discussed at the next meeting.

Assistant Director Jones referenced the Guidance Memo, which was put together by Mr. Reinhard, and sent out to all the APOs. He also said Mr. Reinhard did a great presentation at the Procurement Kick Start conference in Springfield. He said this document spelled out what the agencies and universities need to do.



Chair Roberts would like the Assistant Director to have at the next full Council meeting some Compliance standards that could be put in rules. Assistant Director Jones said at a minimum we can provide an update of where we are at the meeting.

- Add BEP language to State Contracts

Chair Roberts said the subcommittee needs to look at the possibility of having standard language in all State of Illinois contracts that this program impacts. Assistant Director Jones said one of the things that will go into the contract template will be language on the penalty of non-compliance. He said the Executive Order gives the CMS Director and the BEP Secretary the authority to terminate the contract.

Member Doria wants to know what the penalty is going to look like. Assistant Director Jones said the new language is going to say that the contract can be terminated based on failure to meet the BEP goal as articulated in the Utilization Plan.

Member Doria wants to know whether there are any monetary penalties assign to it. Assistant Director Jones said it is in the rules any company that enters into a contract fraudulently, the penalty will be the gains they received. He believes this can be improved upon.

Member Doria said this is in the case of fraud. She wants to know what about compliance. Counsel Glavin said something they could do is evaluate shortfalls and see where improvement can be had involving liquidated damages.

Member Doria said she would like to see liquidated damages assess to contractors who have shown a pattern of non-compliance. She said she would like for the law to be written so that the money would go into the BEP program for compliance monitoring or running the program.

Assistant Director Jones said in the legislative proposal they put in there for \$50.00 so that BEP can get \$35.00. He said they also created a BEP fund so that an appropriation will be made by the Legislature. He said there have been all types of laws passed for BEP, but they are not funded. He also said he encouraged

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lawmakers to gives us resources to carry out the mandates. On the enforcement side, he said the penalty would be the value of the contract for at least one term of the contract.

V. Define Action Items

- Creating uniformity for any entity that must comply with the BEP program
- Looking at best practices at the City and the County specifically their terms and conditions
- Better specifying the penalty for vendors that are out of compliance
- Provide rules changes before the next meeting

Assistant Director Jones points out a new legislative bill that he believes that Council should be made aware of. He said it is HB-2298. He said it mandates that non-profit entity shall be certified in the BEP program if they have over 51% of their Board of Directors are minority, women, or persons with disabilities. He said this is problematic because the program has always been for For-Profit entities. He said the sponsor is Representative Ramirez.

Chair Roberts said she knew that were rules changes and she ask to be brief on those changes. Counsel Glavin said he does not have the rules with him right now but will provide updates to the members later.

VI. Suggestions for BEP Council Meeting agenda item(s)

- Next Council Meeting – February 25, 2019
- Next Subcommittee Meeting – March 27, 2019

VII. Public / Vendor Testimony

None

VIII. Adjournment

The meeting adjourned at 2:00pm.

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