



**Business Enterprise Council  
COMPLIANCE SUBCOMMITTEE MEETING  
Friday, August 21, 2020  
10:00 pm – 12:00 pm  
James R. Thompson Center  
100 W. Randolph Street, JRTC  
Chicago, IL 60601**

**COUNCIL SUBCOMMITTEE MEMBERS IN ATTENDANCE**

Larry Ivory; Jesse Martinez; Sharron Matthews; Sharla Roberts

**COUNCIL SUBCOMMITTEE MEMBERS NOT IN ATTENDANCE**

Denise Barreto; Edward McKinnie

**COUNCIL SECRETARY**

N/A

**CMS STAFF IN ATTENDANCE**

Paul Kuchuris; Kajanda Love; Patricia Pérez; Ivan Ramírez; Leslie Taylor

**OTHERS IN ATTENDANCE**

Kori Acosta; Dale Morrison; Tracy Sullivan



**Business Enterprise Council  
COMPLIANCE SUBCOMMITTEE MEETING**

**Friday, August 21, 2020**

**10:00 pm – 12:00 pm**

**Location: Webex Videoconferencing**

**Webex Meeting Number (access code): 133-631-8666**

**Password: UUdtTCMg635**

**Dial from a video system or app [1336318666@illinois.webex.com](mailto:1336318666@illinois.webex.com)**

**Join by phone - [+1-312-535-8110](tel:+13125358110) United States Toll (Chicago)**

**AGENDA**

- I. Welcome
- II. Call to Order
- III. Roll Call
- IV. Posted Business
  - a. Approval of February 21, 2020 Compliance Subcommittee Meeting Minutes
  - b. Exemptions
  - c. Utilization plans
  - d. Mentor Protégé Program
  - e. Sheltered Markets
  - f. Dispute Resolution Process
- V. Define Action Items
- VI. Upcoming Business Enterprise Council & Subcommittee meeting dates:
  - Next Council Meeting – Monday, August 24, 2020
  - Next Certification Subcommittee Meeting – Monday, September 28, 2020
  - Next Outreach Subcommittee Meeting – Tuesday, September 29, 2020
  - Next Compliance Subcommittee Meeting – Wednesday, September 30, 2020
- I. Public / Vendor Testimony
- II. Adjournment

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



## MINUTES

### **I. Welcome**

Chair Roberts welcomed everyone.

### **II. Call to Order**

Chair Roberts called the meeting to order at 10:04 am. Kori Acosta proceeded with roll call.

### **III. Roll Call**

Roll call was conducted. Quorum was established.

### **IV. Posted Business**

#### **a. Approval of February 21, 2020 Compliance Subcommittee Meeting Minutes**

Member Matthews motioned to approve the minutes. Member Martinez seconded. All agreed. The minutes were approved.

#### **b. Exemptions**

Chair Roberts noted that this item was brought up for the last several meetings because they had questions on it prior to COVID. She stated she believes they discussed this briefly in the last meeting and it was indicated for further discussion as it relates to additional requested exemptions from institutions of higher education and agencies. Chair Roberts announced they would put this item on the table to have discussion from the council members.

Member Ivory stated they have been grappling with this issue for quite some time. He said relating to the amount of exemptions going back years where they would ask why institutions received exemptions and the response was they always received them and are getting it again to which they began to whittle them away. Member Ivory outlined that those exemptions are part of the problem that plague the state in terms of minority participation and noted some are valid. He pointed out they are the vanguard to protect minority business interest and when they allow any unnecessary exemptions, they have failed. Member Ivory declared that they have to be dogmatic in identifying what is and is not (an exemption) and noted that it does take time and energy. He brought up that they



had some rules on the table relating to the process and asked whether or not that was the case.

Chair Roberts responded that they voted on this based on Colette Holt's recommendations that she strongly urged them to get rid of the process and that goals should be set on a case by case process because is highly unusual for an MWBE program. She reported that they wanted clarity on where they stood on the vote and believes they wanted to make a vote on it today, but they wanted to open this up for further discussion.

Member Martinez described this as a very important issue where everybody weighs in and they need to apply common sense. He said that common sense tells him that if you have a blanket exemption for the most part those agencies will not take the time to review how many new businesses have been created that could potentially participate because the practice is to just move the exemption forward without an advocate at the table reviewing for newly created businesses. He stated they are never going to get the participation so common sense tells him to put exemptions on a case by case basis for review because if there are 3 or 4 new businesses in the area, that justifies goals and they will never get that with blanket exemptions. Member Martinez mentioned that they always hear that this is the way they have always done it, so the practice of not reviewing every new procurement that goes out is a disservice and they are not fulfilling their responsibilities.

Member Martinez stated that he would like to see the practice that Colette Holt recommends, that every new procurement that comes out be looked at and if it merits an exemption then its validated then at least someone has reviewed it and made a decision that it justifies an exemption. He declared that anything less means they are not doing their job.

Member Matthews agreed with what has been said. She stated that the magic happens on the operational level and there are a couple of things that need to be done, one that whatever the final decision, it needs to be done and taken to the Joint Committee on Administrative Rules ([JCAR](#)). Member Matthews reported that she has been in meetings preparing her agency's compliance plan and according to their fiscal staff they go by what the compliance plan says which gives them just a little bit of improvement from the year before and they refer to JCAR. She said that years ago this was taken up and was supposed to have been put in JCAR and it has to go to that level in order to be adhered to. Member Matthews pointed out that as long as agencies, universities, participating boards and commissions are looking at what they deem the same thing in what the compliance plans are saying, you are going to get the same results.



Member Matthews outlined that the second thing is that looking at each procurement on its own, they will have to start at the justification process. She said that knowing that all agencies are different, those who are authorized to create procurements, there is a process where it is thought of and put into writing and its at that point where the review process needs to be more than that one person that is tied to this. Member Matthews stated they are supposed to see each procurement but by the time its seen it has already been posted and is just waiting for a goal. She said there needs to be discussion prior to that posting, in terms of forecast also. Member Matthews stated that is what she is talking about at operational level. She agreed there are too many exemptions and said they need to inform, regulate and train folks how they want that done and they can't just leave it up to them because they have too many that are autonomous in how they do things in terms of procurement and who is involved sol they need to lay out a process in terms of the procurement plan.

Chair Roberts asked where they stand after discussing and voting on this issue several times. Member Ivory added that there are rumblings in the Black Caucus in reference to the BEP Council not fulfilling its obligations. He stated that it is a mix of the pandemic and people taking a real hard look at the lack of African American, black participation. He pointed out that they are in an environment where people are taking a serious look at them and their performance.

Member Ivory moved to deny requested exemptions from agencies and higher education. Member Martinez seconded the motion. All agreed. The motion was carried.

Chair Roberts added that the next item is to move forward with a process to address Member Matthews concerns and get it to be more efficient and seamless for the end users. She said they will have this as an agenda item to work on a process as they did with the utilization plan. Member Matthews thanked Chair Roberts and pointed out that they have to post things with JCAR as it was supposed to have been done years ago. She noted that historically this was voted on years ago, but it was never taken to JCAR which was the next step so that those that use JCAR as a reason for being able to exempt in these areas can no longer do that. She said that needs to be worked on along with the process.

Member Matthews pointed out that the compliance plans are due next Friday. She said that what they do now will impact the next fiscal year. She remarked that they had agencies do two plans last year and not all of them were submitted. Chair Roberts stated they will take all of this into consideration and discuss it during the working group process on how to get that done seamlessly and efficiently. Member Ivory echoed that the process is very important and if they have been dealing with the same issue and JCAR is an issue that has to move them forward then they have to make sure that they are not lawless and



wasting time. He specified that when they put something on the table that should move forward, they need to be accountable to make sure they move forward and follow the process. Member Ivory said he wants to make sure with this subcommittee that when they have something important to do that they follow through and don't leave things that should have been done for 2 years and they are still dealing with the same issues because that is a waste of their time and is really not reflective of them as an organization. Chair Roberts stated they will have this as an agenda item in the next compliance meeting so they can move forward on this process.

**c. Utilization Plan**

Chair Roberts opened discussion on the new utilization plan. She said they received the new utilization plans from CMS and said Ms. Lakhani was to be on the line. Chair Roberts noted that Member Matthews stated the utilization plan was not part of the solicitation document and that they are sometimes forgotten. Member Matthews confirmed this and stated it was corrected in the new version. She said it is mentioned 3 times and bolded that it becomes part of the contract if in fact the proposing prime gets the award.

**d. Mentor Protégé Program**

Chair Roberts noted that no one from CMS was on the line and tabled this discussion for the next compliance subcommittee meeting. She brought up that one of the concerns that has been brought up is how they will count credit towards the goal if they implement a Mentor Protégé Program, so that is one of the questions they can ask. Chair Roberts explained that if they implement a utilization plan and there is a 20% goal, how do agencies or prime vendors get credit from implementing a Mentor Protégé Program. She expressed her belief in Mentor Protégé Program's effectiveness and ability to help women and minority owned firms in areas where they may not have expertise and stated it is another item recommended by Colette Holt to be implemented at the State of Illinois. She pointed out that the City of Chicago and other programs use them. Chair Roberts pointed out that this is another item that as Member Ivory noted has been discussed for over two years that has not been implemented and really wants to begin the process from a compliance standpoint on how they can implement the program. She said they will work on it the same way they worked on implementing the exemptions on implementing the process and once it becomes a process they will put it in JCAR and things of that nature.

Member Matthews added that she would like for them to consider branding. She opined that the Mentor Protégé Program is great, but the branding is not. She commented that she does not know of many company owners that want to be thought of as proteges. Member Matthews stated the need to be more creative and that the name needs to be a bit more attractive and asked that if folks could start thinking about that she would appreciate it. Chair Roberts responded they would take everything she said under advisement and have it



as a topic of discussion when they roll out the program. She stated they need to do it in such a way to ensure people understand what it is, the whole concept and what are the benefits to the prime and sub.

**e. Sheltered Markets**

Member Ivory stated they have been fighting many years for the sheltered market and it is simply the law. He mentioned that they did one sheltered market in IT and is not sure that was very successful. He said one their members won this sheltered market and based on his understanding from him, it did not go very well. Member Ivory asked if they think they resolved discrimination with this one sheltered market. Member Matthews responded that is a rhetorical question and that of course they did not resolve discrimination. Member Ivory demonstrated that here they are again, and the law is on their side. He said people are looking at the effectiveness of the BEP Council. He outlined that sometimes people get in the way of what they are trying to accomplish.

Member Ivory asserted that it is not a time for them to not push aggressively forward to correct some of this disparity. He affirmed that they should have sheltered markets done on a continuous basis and in 4 years they have one sheltered market done by CMS. He said they had a marketing/advertising contract that went out for contact tracing and marketing/advertising in the African American and Hispanic community. Member Ivory noted they did not have one sheltered market in marketing/advertising and stated that in his opinion that is a real problem in society, and they have to assume some of that responsibility for having allowed people to be left out. He said the numbers are awful and from one administration to the next it has been the same thing. He stated they have to stop having good conversations and being nice. Member Ivory proclaimed he is not going to be a nice person from now on, on these issues. He declared they are not going to allow continued disrespect on participation, and they are going to have to do more sheltered market and they can take that to Michael Merchant and anyone who wants to hear him on that subject. Member Ivory remarked everyone says they will get sued to which he said if it's worth doing it's worth getting sued for, they have attorneys, ,but for them to continue in 4 years to have one sheltered market based on the law is an insult to the council.

Member Matthews stated support for what Member Ivory said. She remarked that this is where another great idea was put forth with no process on the operational level. She recalled that Ms. Lakhani had put together one sheet on how to do sheltered markets that didn't address what she was asking. Member Matthews outlined two things with the sheltered market, the process and who is at the table. She said the sheltered market comes out of the procurement office. Member Matthews stated there needs to be a detailed process and where it happens. She affirmed that unless they add operational pieces to it and get it in JCAR they are not happening amongst the over 100 different entities they have, and then they need enforcement. She emphasized this goes across the board for any ideas they have.



Member Ivory agreed with Member Matthews. He stated JCAR comes up a lot in conversation and seems to become a bottleneck for good policy. He added that need to have thorough understanding of JCAR and what is and what is not their role, just like when the [CPO](#) (Chief Procurement Office) pulled the marketing/advertising sheltered market they had passed stating it was not official and did not meet compliance. Member Ivory reported he had a very candid conversation with her, and she released it because he made it clear that she did not have that authority. He said they need to understand this process from beginning to end so they can ensure anyone else does not become a bottleneck of good policy that creates a better and fairer state in Illinois. Chair Roberts stated she will bring that up in the next full Council meeting for BEP to put out a memo to all the APOs, and added she believes they requested this before, about available sheltered markets and to utilized them. Member Matthew said she is correct and that has gone out before, meaning as a council they need to be able to put teeth on an operational level for these things and that is done by either Executive Order or JCAR. Chair Roberts stated that what she would do in the BEP Council meeting on Monday is request the usage of the sheltered markets that are out and all the procurement that went out and make a recommendation from there. She said they have two on the table, wants to measure how many procurements went out in these areas and where are the missed opportunities, and put in place a process to monitor that or have a question before that goes out, "could this be sheltered market?" as part of the procurement business case.

**f. Dispute Resolution Process**

Member Ivory stated that they discussed the dispute resolution process extensively and the rules state they need to be involved in the process and approve it. He said he heard a process was done and not brought before the Council as it should have been. Member Ivory outlined that they talk about process and if they don't follow the rules that have been set they will be breaking the rules. He asked if they have a dispute resolution process and if it hasn't been brought before the council it should have been before it was made official, and if it hasn't been it ought to be taken off the table and brought back to the Council and done properly. Member Ivory added that if he is wrong someone could correct him, and he will stand down and apologize. He declared that if he is correct, then his request is that if they have a dispute resolution that was not brought before the council, then it is null and void and that they bring it back to the council. Member Ivory stated that they may agree with it 100% but it still needs to follow the process because they can't pick and choose the rules that you are going to follow.

Member Martinez suggested they wait for the council meeting and hear what they have to say about it. He concurred that he is under the same understanding, and that they find out the status of that implementation. Member Ivory stated he would hope that the point he made with the council didn't fall on deaf ears and that every Council member votes with consistency. He said let's follow the process because they cannot pick and choose when they want to follow the process, convenient to themselves. He stated consistency says something, that everyone needs to be treated everyone fairly.



Member Martinez stated he values the opinion of this Council. He said that the experience of every council member should be taken into consideration and the value that the council brings to the overall diversity as a whole to the state. He pointed out that they make these recommendations based on experience that the Council brings to the State; good practices, how to increase capacity of diverse businesses, so the opinions of this Council should be taken seriously. Member Martinez stated he also hears questioning on what is the effectiveness of this Council. He said if nobody is implementing these recommendations then they and everyone else will be frustrated. He said you have to put the good idea into action. Member Martinez recalled that one of the recommendations was to have every agency, middle manager come before the Council to talk about goals, plans, exemptions, implementation, and enforcement then they will understand who is on board and who is not taking this seriously. He noted the Director's feel the heat and will tell them what they want to hear. He declared that is what they need to do to get all these issues resolved so they know where all the problems are.

Member Matthews stated agreement with everything said by her co-members. She said she noticed how people get around some of the things they try to put in order, excluding COVID. She reported seeing more emergency purchases which allows the procuring entities not have to deal with BEP goals and larger Small Business Set-Aside purchases, in the millions now. She stated that as they are getting more detailed in making rules and laws actually happen, there are folks on the operational level finding ways to get around certain things and she would like to put both those things on the radar. Member Matthews said they also need to plug loopholes. Chair Roberts thanked her for pointing these out and said Member Ivory had discussed this prior to her return. She noted that the law says 20% of your spend without specification and there should be no reason why small purchases of even \$1 million does not have to have a BEP goal. Chair Roberts said she believes historically they have had goals.

Chair Roberts asked that a question go out to all APOs and BEP liaisons to report how many small purchases they have had in the last 2 fiscal years, how many had BEP goals, and for the ones that did not have BEP goals, what was the justification. She said they will bring this up in the council meeting and they will work on processes. Chair Roberts explained they are responsible for a lot of things that are outlined in the BEP Act ([30 ILCS 575](#)) and want to ensure they are doing those things.

## **V. Define Action Items**

- a. Discuss emergency purchases; creating policies in participation for them
- b. Small Business Set-Aside; Survey - report how many small purchases they have had in the last 2 fiscal years, how many had BEP goals, and for the ones that did not have BEP goals, what was the justification
- c. Mentor Protégé Program
- d. Creating policy and branding around the Sheltered Market process; ensuring utilization



- e. UIC Study on Sheltered Market to be presented to the Council

**VI. Upcoming Business Enterprise Council meeting date**

- Next Council Meeting – Monday, August 24, 2020
- Next Certification Subcommittee Meeting – Monday, September 28, 2020
- Next Outreach Subcommittee Meeting – Tuesday, September 29, 2020
- Next Compliance Subcommittee Meeting – Wednesday, September 30, 2020

**VII. Public / Vendor Testimony**

Chair Roberts asked if there was public/vendor testimony. There was none.

Member Ivory underscored the importance of prioritizing the understanding of the process for the BEP Council and a strong education of it for them. He said they need to take a serious look at emergency contracts. Member Ivory spoke to his fellow council members stating they have an enormous responsibility to correct the deficiencies in state procurement and the numbers are not very positive when it comes to blacks, Hispanics and women. He noted that people who are rioting and looting are people who don't have things and the wealth gap is significant across the board. Member Ivory stated they have to do a better job of this.

Member Matthews noted that compliance is the key to BEP, although that is not to say outreach and certification are not important. She pointed out that all the things they talked about not working are compliance issues. She suggested for this reason they should start meeting monthly and two weeks before the full council meeting because there is just too much to do. Chair Roberts agreed and stated she will work to go over these agenda items and schedule some working group meeting with BEP.

**VIII. Adjournment**

Member Matthews motioned for adjournment. Member Ivory seconded. All agreed. Chair Roberts adjourned the meeting at 11:08 am.