



Business Enterprise Program Council
COMPLIANCE SUBCOMMITTEE MEETING MINUTES

Wednesday, January 24, 2018

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

Larry Ivory, Sharla Roberts, Jesse Martinez

SUBCOMMITTEE COUNCIL MEMBERS NOT IN ATTENDANCE

Sheila Hill-Morgan, Edward McKinnie, Denise Barreto, Beth Doria

Staff Assistant

Harry Reinhard

COUNCIL SECRETARY

Amiel Harper

CMS MEMBERS IN ATTENDANCE

Ben Jones

OTHERS IN ATTENDANCE

Casey Stralka



**Business Enterprise Program Council
COMPLIANCE SUBCOMMITTEE MEETING**

Wednesday, January 24, 2018

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
 - Agencies Exemptions Review
 - Update on Legislative Agenda
 - Update on JCAR Submissions
 - Subcommittee Meetings Calendar Review
- V. Define Action Items
- VI. Suggestions for BEP Council meeting agenda item(s)
 - Next Council Meeting – February 26, 2018
 - Next Subcommittee Meeting – March 28, 2018
- VII. Public / Vendor Testimony
- VIII. Adjournment

I. Welcome

Chair Roberts welcomes all.

II. Call to Order

Secretary Harper called the meeting to order at 1:36pm and proceeded with roll call.

III. Roll Call

Roll call conducted, and quorum was not established.

IV. Posted Business

• **Agencies Exemption Review**

Assistant Director Harper said it would be a challenge for him to approve these on their face. Member Ivory said in the past when agencies are asked why they think they qualify for exemptions, they responded that they had getting them and the council have been approving them. He further said that the challenge will be not only able to identify but if we do not have compliance and the ability to follow the procurement from the beginning to the end. He said some vendors may interpret good faith efforts in different ways. He said some vendors might call someone at 3am in the morning and they need the bid the next day and might believe they are making a good faith effort to get around participation.

Assistant Director Harper said of the 170 plus object codes that have been requested exemptions when we aggregate and average them, the average turns out to be 94.8%. He said this means that all the exemptions being asked for is on average 95% of their budget. He said it seems excessive high to him. He said one of the issues they have to talk about as a subcommittee and as a full council is that as we drive to get more inclusion and get more businesses involved it means increasing the dollar subject to goal as we decrease the exemptions.

Member Martinez explains the process he follows. He said CDB has a committee. He said if a firm is requesting a waiver, they would provide a request and submit good faith efforts documentation. He said it is received and evaluated by his staff. Their finding is given to him. He reviews the finding and agrees or disagrees with it. He will make a determination and submits it to a good faith effort committee. He will have to justify why it is denied or granted. Next, the committee dissects and evaluates it and comes up with a determination. Sometime it is overturned and other times it is agreed with. Next it goes to the CPO's office. Usually it is very hard for it to be disregarded by the CPO's office once it had gone through the committee.

Chair Roberts said the only one she can approve at this time is the IDOT's DBE program where there are no BEP goals. She said it is number 494. She also wants to know if every department is giving CMS their funds and putting that money in a revolving fund, when that contract goes out for goal, does CMS get credit for other people's money that they put in the pot. Assistant Director Harper said he does not know the answer for that. He suggested having it tabled and then asking the largest agencies first in terms of dollars that they are asking for exemption to come in and explain it. He said he feels he does not have enough information to feel confident to go one way or another to exempt from a goal. He proposed stating with CMS because it has the buck of the largest contracts to get an understanding from them about what these items are. He said until we know that, we can't really assess whether they can be exempt. He said he has been looking over the past 10 years of data from our annual reports and our dollars subject to goal has gone up about 2 ½ times from 2007 to 2016. He said it started less than a billion and now it is 2 ½ billion. He said during this time period, it went from exceeding the goal to hitting it at 20% last year. He said his big concern is: Are we doing everything we can to make sure that we are making the goal realistic but robust and are we also making sure that businesses are available to do the work. He said there is no point in expanding the dollars to something really excessive if there is no one there to do it. He thinks there has to be a meeting of the minds between BEP staff who knows where there are businesses that are accessible to do the work and those agencies' partners who may not know as well and their expectation of what is available.

Chair Roberts said the reason our dollars have increased is because a year ago, agencies and universities had to only reflect the Business Enterprise participation on state appropriated funds. The law was changed to include the whole budget minus your allowable exemptions.

Assistant Director Harper said there are eight agencies including Human Rights, Commission, Lottery, Gaming, Dept. of Aging, Natural Resources, Community College Board, Education and Labor Relations Board that have requested 100% of their budget as exempted. The total dollar amount of their exempted amount total 1.6 billion dollars. He said this requires a separate review.

Member Ivory said he talked directly to the lottery and they are not exempt. He said if they are asking for 100% exemption, it is not correct.

Assistant Director Harper said Lottery total budget is 1.185 billion dollars. Of that, 1 billion of that are allowable exemptions. 178 million dollars are requested exemptions. He said their dollars subject to goal is \$420,000 which is the dollars subject to goal. Of this amount, the actual goal placed is 20% which is \$84,040. He said out of \$178 million, there is \$84,040 available for BEP goal.

Counsel Jones said he agrees with Assistant Director Harper that there should be some discussion with Lottery. He said they did put a goal on the Camelot contract but based on what Assistant Director Harper said he believes there is more room for advertising. He explained that Camelot runs the lottery system.

Mr. Reinhard said we have 30% goal on three phases of that contract. Assistant Director Harper said he feels there is more to be gotten from this contract.

Member Ivory said the Lottery has to do better because the African American community accounts for about fifty percent of the lottery revenue.

Chair Roberts echoed what Assistant Director Harper had previously proposed: To table this for now. She recommended some meetings and training with the agencies.

Assistant Director Harper said he will work with Mr. Reinhard regarding the requested exemptions and get back to the subcommittee. Chair Roberts reiterated that they will be putting together a list of agencies to come before the full council.

- **Update on Legislative Agenda**

Assistant Director Harper said they presented a satisfactory legislative agenda to the Governor's office. He since then the Governor's policy team, senior leadership team, and legal team have all reviewed the agenda. According to Assistant Director Harper, they are at a stage where the priorities within the agenda are being sorted out. He said in addition to the Governor's team, he is meeting with Bola Delano from the Comptroller's office as well as Joe Kim from the CPO's office. He said the legislative agenda is moving forward. He said there are pieces that will be handled by executive order and the other pieces will go through the Legislature.

- **Update on JCAR submission**

Chair Roberts wants Assistant Director Harper to explain the definition of contract and what is included in the 1400. Assistant Director Harper said there are five areas under the procurement codes that are considered contracts. Of those five, four are included in the definition for the section 23.9 under the Comptroller's Act. He said the one that is excluded is small purchases. He emphasized that the \$15 is per contract and not per year. He also said every time there is a new novation there is another \$15 dollar fee. He does not know if a renewal triggers a \$15 dollars fees. He said if we transfer the \$15 dollars from the Comptroller's office to BEP, which will represent a \$20 000 that BEP did not have last year.

Member Ivory said one of the things that could be a win for us is that when we take a look at participation, we should document that. He said if we know there will be a significant spend and there is no one down state that can logistically do the business, why wouldn't we do an opportunity fair to point out what it takes to get the business. He said it would help entrepreneur or business owners. He said one agency that has done very little has been the Department of Corrections.

Assistant Director Harper gives the numbers for the Department of Corrections. He said they have 1.6 billion in total budget. Out of this amount, 1 billion is allowable exemptions. He said \$423 millions are requested exemptions. This leaves 94 millions subject to goal. 20% of the amount subject to goal is 18.8 million dollars. He said this amount is less than 1% of their budget. He said this subcommittee has to ask questions such as why 100% of the supply of library book has to be exempted.

Chair Roberts said member Ivory has been requesting the Department of Corrections to appear before the council before the request has never been honored. He recommended that the Department of Corrections be among the first agency to call before the council.

Counsel Jones said most of the changes were the proposed rules for the Sheltered Market Program. He said basically we are at the 1st notice period where you have to publish the rules in the Illinois Register. He said they got quite a few questions from the CPO and JCAR. He said they are in the process of filing the amended rules. He said the amended were not substantial. After the amendment, there is a second notice period at which time the public can respond and request a public hearing. After this period, JCAR will respond by either approving or rejecting the rules.

Compliance Manager Reinhard asked about the council driven exemptions. He wants to know whether they are in there. Counsel Jones said he had no received them. Assistant Director Harper said he will get on it.

Member Ivory explained that IDOT does not have a sheltered market, it has a target market. He said it is not the same. Counsel Jones concurred with member Ivory.

- **Subcommittee Calendar Review**

Assistant Director Harper informed the subcommittee that in the certification subcommittee there was a proposal to have both certification and compliance subcommittees meetings in sequence on the same day because they have common membership and would help minimize travels. Chair Roberts said she and member Ivory were present at the certification meeting and they both agreed with the proposal.

Assistant Director Harper said they needed to have a vote but did not have a quorum so it will have to be postponed.

V. Define Action Items

Chair Roberts said we need to update our utilization plan and forms that are in our solicitation documents because they have old information. Assistant Director Harper said they will take care of it.

VI. Suggestions for BEP Council Meeting Agenda (Items)

- Next Council Meeting – February 26, 2018
- Next Subcommittee Meeting – March 28, 2018

VII. Public / Vendor Testimony

None

VIII. Adjournment

Chair Roberts motioned to adjourn. It was seconded by member Ivory. Meeting adjourned at 3:10pm.