

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

**MONTHLY COUNCIL MEETING MINUTES**

100 W. Randolph  
Room 2-025  
Chicago, IL 60602

401 S. Spring St.  
Room 500 1/2  
Springfield, IL 62706

**Monday, August 27, 2012 - 1:30 P.M**

**COUNCIL MEMBERS IN ATTENDANCE**

Florence Cox	Beth Doria	Nelida Smyser-DeLeon	Alesia Hawkins	Jesse Martinez
Samantha Hufnagel	Larry D Ivory	Rodney Lewis	Perry Nakachi	Lynn M. Turner
Charisse Witherspoon	Richard Boykin			

**COUNCIL MEMBERS NOT IN ATTENDANCE**

Fred Coleman	Omar Duque	Alfred Ramirez	Richard Boykin	Marva Boyd
Joan Archie	Hedy Ratner			

**COUNCIL CHAIR**

Malcolm Weems, Chairman, CMS Director

**COUNCIL SECRETARY**

Paul Cerpa, BEP Deputy Director

**CMS STAFF IN ATTENDANCE**

Tasha Cruzat	Denise Reed	Elias Ricks Ngwayah II
Philina King	Angela Stinson-Marti	Ashley Hooks
Susan Hartman	Daymon Rittenberg	Kevin Connor
Sharla Roberts	Carlos Gutierrez	Chimaobi Enyia
Ellen Daley	Agueda Corona	Ngozi Okorafor

**OTHERS IN ATTENDANCE**

Tim Fishburn	Ben Bagby	Darryl Harris	Jane Fields	Ruddy Ortiz
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Margaret Van Dijk  
Tom Mikrut  
Georgina Syas

John Dotson  
Debra Matlock  
Jonathan Feipel

Kevin Krass  
Ken Martin  
Vir Doshi

David Bird  
Darryl Harris

Gustavo Giraldo  
Lori Campbell

## **AGENDA**

- I. Welcome
- II. Call to Order
- III. Roll Call
- IV. Approval of the Minutes of the Council Meeting held on July 23, 2012
- V. Chair's Report
- VI. Posted Business
  - Disparity Study
  - Sheltered Market
- VII. Unfinished Business
  - Public Hearings
- VIII. Committee Updates
  - Procurement Committee
  - Business Development Committee
  - Capital Access and Banking Committee
  - Certification Committee
  - Policy, Rules and Enforcement Committee
- IX. New Business
  - Jonathan Feipel, Illinois Commerce Commission
- X. Adjournment
  - Next Council Mtg. – September 24, 2012

## **Welcome**

Chairman Weems called the Business Enterprise Program (BEP) Council meeting to order at 1:40 pm on August 27, 2012.

## **Roll Call**

Council Secretary Paul Cerpa took the roll and announced that a quorum has been obtained.

## **Approval of the Minutes of the Council Meeting held on July 23, 2012**

Council approved the minutes of the July 23, 2012 Council meeting.

## **Chair's Report**

Chairman Weems asked whether everyone read the July Minutes and were had any objections. Council member Beth Doria said she made some minor corrections and had forwarded them to the Secretary but they were not substantial. The Council however voted to adopt the Minutes with the modifications.

Chairman Weems informed the Council about an event held by Member Larry Ivory's Illinois Black Chamber of Commerce in which he was impressed. According to Chairman Weems many businesses were present and also high profile dignitaries such as the Illinois Senate President were in attendance. Several issues concerning minority businesses were discussed along with some private sector businesses that are doing things on their own outside of the State.

Chairman Weems also informed the Council about upcoming events for the Illinois Toll way Authority. The first event was scheduled for the 29<sup>th</sup> of August which is the Employment Resources and Information Event to be held in Midlothian, IL. Also on the 18<sup>th</sup> of October is a Construction Career Expo 2012 and Beyond to be held in South Holland, IL. Lastly, November 15, 2012 is the Transportation Symposium and Business Exchange to be held in Chicago Hilton Tower in Chicago, IL.

Secretary Cerpa additionally informed the Council about NAWBO Day coming up October 1, 2012. He also informed the Council about the upcoming Women's Business Development Council event on September 20, 2012.

Council member Nelida Smyser-Deleon also informed the Council about the upcoming event on September 28, 2012 that CMS and DHS are putting together a workshop for property owners to come to the table and do some certification and registration.

## **Posted Business**

- **Disparity Study**

Chairman Weems informed the Council about the Disparity Study Request for Proposal that went out and that we have received some bids that are currently being reviewed. He further explained that the new Disparity Study will be done under the current procurement law, post Senate Bill 51, so that we can make sure that we get the necessary information back from vendors regarding their subcontracting efforts now that they are required to provide such data. Chairman Weems stated prior to Senate Bill 51, we found it much harder to accomplish that effort. He emphasized that we do expect more complete information from the vendors.

Council member Florence Cox inquired about the amount of bidders we have. Secretary Cerpa responded by saying that the bid open last Friday and that he has not yet been updated about the amount of bids received. Ms. Cox requested for council members to at least have the opportunity to view the RFP solicitation. Secretary Cerpa indicated he would oblige this Council's request.

Council member Larry Ivory inquired from the Chairman about the knowing what is being tracked regarding procurement. Chairman Weems responded by acknowledging that we do track the solicitations and awards. He further talked about creating a section within the Agenda for review of such monthly reports.

- **Sheltered Market Rules**

Secretary Cerpa talked about the Sheltered Market rules that were emailed to the Council for review and encouraged them to review it because they will have to vote on the rules. He explained that BEP worked closely with Legal to come up with the rules and to make sure that they work consistently for any consideration of Sheltered Markets. He also informed them about the upcoming BEP IT Public Hearings slated for the 11<sup>th</sup> thru 13<sup>th</sup> of September and stressed the importance of having them attend these Hearings. Chairman Weems also stressed the importance of the council members' attendance.

Council member Charisse Witherspoon asked whether it was intentional to have testimony not given after the hearings. Secretary Cerpa responded by saying that testimonies may be received after the hearings until September 23<sup>rd</sup>. Council member Witherspoon then requested that fact be made available on the flier promoting the hearings.

Council member Smyser-De-Leon sought clarification between Sheltered Market and Sheltered Workshop. Legal Counsel Philina King explained that it is one procurement tool similar to a set-aside but different from a Sheltered Workshop. It is gear toward an entity that there is proof of

some egregious discrimination that cannot be rectified by any other means. She explained that the rules are outlining the process of going toward or indicating that a Sheltered Market may or may not be required. Counsel King explained that the Sheltered Market is not new but is part of the BEP Statute.

Council member Jesse Martinez asked whether the Disparity Study will add to more strength to what the Council need to do. Counsel King answered yes. Council member Martinez further asked if the Disparity Study goes against the need for a Sheltered Market will the Council still engaged the Sheltered Market. Council King responded that part of the need to engage the Sheltered Market is the Disparity Study. She further indicated that it could back the need not to create a Sheltered Market.

Council member Doria asked whether we could use data from the Mason Tillman's Disparity Study. Chairman Weems said no because it was incomplete.

Council member Perry Nakachi asked Chairman Weems to discuss what happened to the Mason Tillman study. Chairman Weems responded by simply saying "Incomplete Data". He explained that vendors did not respond when asked for data because there was no legal requirement for them to do so and there was nothing the State could have done to have that information. Post Senate Bill 51, the vendors are required to provide that information. Council member Nakachi asked why others could accomplish their Disparity Study by getting the required data but we could not do the same. Chairman Weems explained that construction projects are very much different from buying pencils to getting IT softwares/hardwares. He said in construction one gets their data up front unlike other projects. Next, Council Nakachi asked whether Mason Tillman was eligible to bid on this new Disparity Study contract. Chairman Weems answered yes, but that he did not know whether they did or not.

Council member Florence Cox asked whether the bid proposal matched up with what is cited in Senate Bill 51 as it relates to enumerate some of the disparities that minorities suffered when it comes to contract situations. Chairman Weems said he believed that what Council member Cox was talking about has more to do with the BEP Act than with Senate Bill 51. He said the RFP laid out what we really want and should have milestones for deliverables. Council member Cox said her concern is that some of these studies do not capture what we really need and the vendor would say that wasn't indicated to me in any way or in anything we received.

Council member Larry Ivory stated his concern is that the Statute gives the process of what is to be put into the Sheltered Market to the Council and he doesn't want that to be relinquished to the EEC or to the CPOs. Chairman Weems said the establishment of the Sheltered Market lies with the Council but what goes through it would have to done in consultation with the CPOs. He indicated that the ultimate authority regarding procurement lies with the CPOs and therefore the Council will have to work closely with them. Council member Ivory indicated that he will have a meeting with Matt Brown to discuss issues relating to the establishment of a Sheltered Market. EEC representative Margaret Van Dijk concurs with Chairman Weems. Council member

Nakachi asked whether a Sheltered Market has to be for a particular group. Chairman Weems responded that it has to be narrowly tailored as described in Statute. Council member Nakachi asked how much influence would the Council have on the procurement people after the establishment of the Sheltered Market.

Council member Doria said she thinks it would be the right course of action to vote on the rules before the hearings. Secretary Cerpa responded by saying the hearings are only for the testimonies and the rules would not be communicated there.

## **Unfinished Business**

- **BEP IT Public Hearings**

Secretary Cerpa reiterated the importance of the hearings and announced their dates. He confirmed the attendance of Council members Alesia Hawkins, Charisse Witherspoon, Perry Nakachi, and Larry Ivory for the Chicago hearing. Council member Ivory will also be attending the hearings in Collinsville, IL and Springfield, IL. Gustavo Giraldo will attend the Chicago hearing.

## **Committee Updates**

- **Procurement Committee:** Council member Charisse Witherspoon thanked the Council for giving her the opportunity to lead this committee. Council member Witherspoon said she has spoken extensively with several people around the State regarding the procurement process and they have indicated concerns about a number of issues or perceptions. Examples include but are not limited to, a sense of the entire “big picture” of state procurements (for example, the universities, IDOT, and the Capital Development Board) is not readily available in one place for reasons including that the entire state is not on Remedy system and there are a number of procurement bulletin boards. Council member Witherspoon also expressed concerns about the number of, and dollar amounts of, Master Contracts and whether they have BEP goals. Council member Witherspoon said other questions were about whether renewals of existing contracts without BEP participation should have BEP goals.
- **Business Development Committee:** No Report
- **Capital Access Committee:** No Report
- **Certification Committee:** Committee chairperson Florence Cox informed the Council that the committee met in the morning and voted to rescind the denial and grant certification based on the testimony given by the person at the hearing and the information gathered from the files.

- **Policy, Rules and Enforcement Committee:** Chairperson Beth Doria said they have not received any request for waiver therefore they have not met for committee meeting. Committee member Jesse Martinez told the Council that with some of the grants awarded the committee is awaiting the grantee to select their general contractors. This would allow the minority/female subcontractor to be identified.

Secretary Cerpa asked the Policy, Rules and Enforcement Committee to consider looking into the construction review process for consideration of a joint venture policy for counting BEP participation. Council member said they would take on that task.

## **New Business**

- **Jonathan Feipel, Illinois Commerce Commission**

Chairman Weems introduced Jonathan Feipel, the next Director of Illinois Commerce Commission to the Council and said he is here to talk about his agency and what they do. He formerly worked at DCEO. Mr. Feipel said his organization is responsible for regulating all utilities such as water, gas, electricity, sewer, as well as telecommunication and transportation.

He said his purpose for coming was to discuss two new provisions recently passed: The Energy Infrastructural and Modernization Act sponsored by ComEd which would get ComEd to heavily invest in infrastructures over the next ten years. On the other hand, the regulatory system will review cost on a yearly basis instead of every five or ten years. Part of this agreement is that utilities will have to meet certain metric such as outages or infrastructures in certain places. Mr. Feipel said the part of the agreement that BEP might be interested in is that the utilities will now have to increase their Minority, Females, Veteran, and Disabled spend by 15% over the next ten years based on 2010 baseline. From ComEd it would be about a million dollars annually. And Ameren and the rest of the State it would be about two hundred and fifty thousand dollars.

The other piece of legislation is that all gas and electricity companies with about a hundred thousand customers would have to report every February any goals they might have for the various categories: Women, Minorities, Disabled, and Veterans and how they are doing hitting targets within those categories. An annual report will be given each year starting this February.

Council member Doria asked whether the ICC is going to give ComEd a particular format to report the data. Mr. Feipel stated that the law specifically said a readable PDF file.

However, he is willing to hear recommendations from others. He expects all the companies to have similar reporting formats.

Council member Cox asked whether the ICC will be regulating all these companies that are asking people to sign up with them for electricity. Mr. Feipel said this was a key issue being looked at currently.

Secretary Cerpa informed Mr. Feipel that BEP has submitted requests to all agencies for their monthly reports which are fairly comprehensive and offer him the option of using these reports if he needed to.

Mr. Carlos Gutierrez asked how would the ICC validate that the companies being used to fulfill the Minority/Females/Veterans/Disabled status are truly certified or self certified Minority/Females/Veterans/ and Disabled companies. Mr. Feipel responded that the law is silent on this aspect of the provision. Therefore when we are talking to them, we will be asking them about these companies certification. Mr. Feipel does not think there is anything the ICC can do if the companies do not comply with BEP certification as the law is written.

Council member Nakachi sought clarification on the one million minority goal. Mr. Feipel explained that the one million dollar goal is a 15% increase from year 2010 over the next ten years. Council member Nakachi further asked who set the goal. Mr. Feipel responded that it was the utilities companies. He also said if the goals are missed, their return on equity will be reduced.

#### **Vendor Testimony**

- None

As a reminder, Secretary Cerpa again reiterated that tomorrow starts the series of BEP Goal Setting Training-all Council members are invited to attend.

#### **Adjournment**

Meeting adjourned at 3:10 PM