

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: CENTRAL MANAGEMENT)
SERVICES and IRVIN) OEIG Case #17-00626
"CHIP" SMITH)

OEIG FINAL REPORT (REDACTED)

Below is a final summary report from an Executive Inspector General. The General Assembly has directed the Executive Ethics Commission (Commission) to redact information from this report that may reveal the identity of witnesses, complainants or informants and "any other information it believes should not be made public." 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes-competing interests of increasing transparency and operating with fairness to the accused. In order to balance these interests, the Commission may redact certain information contained in this report. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut the report's factual allegations or legal conclusions before the Commission.

The Commission received this report from the Governor's Office of Executive Inspector General ("OEIG") and a response from the agency in this matter. The Commission, pursuant to 5 ILCS 430/20-52, redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Executive Inspector General for the Governor, and Central Management Services, and to Irvin "Chip" Smith at his last known address.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52.

FINAL REPORT

I. ALLEGATIONS AND EXECUTIVE SUMMARY

Beginning in February 2017, the *State Journal-Register* published letters and articles questioning the Illinois Department of Human Services (DHS)'s decision to enter into a five-year lease with Climate Controlled Holdings LLC, for a warehouse in Springfield, Illinois.¹ According to those publications, although Climate Controlled Holdings had recently purchased the property

¹ See, e.g., *Letter: Cost to lease building for DHS should outrage taxpayers*, *State Journal-Register*, Feb. 26, 2017, <http://www.sj-r.com/opinion/20170226/letter-cost-to-lease-building-for-dhs-should-outrage-taxpayers>; *Letter: Lease for IDHS not good use of taxpayer money*, *State Journal-Register*, Mar. 7, 2017, <http://www.sj-r.com/opinion/20170307/letter-lease-for-idhs-not-good-use-of-taxpayer-money>; Brian Robbins, *Manar questions state's \$2.4M lease of former Springfield furniture warehouse*, *State Journal-Register*, Apr. 4, 2017, <http://www.sj-r.com/news/20170404/manar-questions-states-24m-lease-of-former-springfield-furniture-warehouse> (last visited Nov. 15, 2018).

for \$750,000, the lease required DHS to make a total of \$2.4 million in lease payments.² Based on those publications, on April 12, 2017, the Office of Executive Inspector General (OEIG) self-initiated this investigation to examine whether the proper bidding procedures were followed, whether Climate Controlled Holdings received preferential treatment in the award of the lease, and whether DHS considered less costly methods of storage.

Subsequently, on April 20, 2017, the OEIG received a complaint alleging that Illinois Department of Central Management Services (CMS) issued Requests for Information for two leases: one for up to 26,000 square feet of warehouse storage space and work space for four to five employees for DHS, and the other for 44,000 square feet for work space for approximately 150 employees, for the CMS Bureau of Computer and Communication Services (BCCS). According to the complaint, CMS initially awarded the DHS lease to MGM Jefferson Corp., and initially awarded the BCCS lease to Climate Controlled Holdings, a company the complaint alleged is owned by the daughter and son-in-law of William “Bill” Cellini. The complaint alleged that it was subsequently determined that DHS actually needed 60,000 square feet of space, and that CMS then switched the awards so that the DHS lease was awarded to Climate Controlled Holdings and the BCCS lease was awarded to MGM Jefferson. Given the similarity to the issues in this self-initiated investigation, the OEIG closed the complaint into this investigation.

In addition, on May 25, 2018, the OEIG received a complaint alleging that CMS Leasing Representative Chip Smith shared pricing information between the bidders for the DHS and BCCS leases before the winning respondents were selected for final lease awards. That complaint was also closed into this investigation.

Finally, while investigating the DHS and BCCS leases, the OEIG discovered a third lease, for property ultimately used by the Illinois Department of Transportation (IDOT), which appeared to have been affected by the process used to procure the two leases discussed above. The OEIG also examined that lease.

The investigation revealed that after proposals were solicited, received, publicly opened, and assessed for responsiveness for a lease of warehouse space for DHS and a lease of office and warehouse space for BCCS, CMS Bureau of Property Management staff significantly changed the space requirements, did not offer a new opportunity for property owners to submit proposals based on the new criteria, and chose lessors that had not submitted a proposal in response to each original Request for Information. As a result, the leases were awarded contrary to the Illinois Procurement Code’s principles that are designed to promote competition and transparency, and to ensure that leases are secured in the best interest of the State.

II. BACKGROUND

The Illinois Procurement Code reflects the important State policy that the “principles of competitive bidding and economical procurement practices shall be applicable to all purchases and

² *Id.*

contracts by or for any State agency.”³ The Procurement Code governs most State contracts, including leases for real property.⁴

A. Agencies And Individuals Involved In The Process For Procuring The State Leases

The following agencies and individuals were involved in the process for procuring the State leases examined in this investigation.

1. User Agencies

The user agency is the agency seeking a lease for real property for its use. The user agencies discussed in this report were DHS, BCCS, the Department of Innovation and Technology (DoIT), and IDOT.

Prior to 2016, BCCS performed some information technology functions for State agencies under the Illinois Governor, while other information technology functions were handled by the individual agencies. Beginning in 2016, BCCS’s functions, as well as some information technology functions previously handled by individual agencies, were transferred to and consolidated in DoIT, a new State agency.⁵

2. Central Management Services

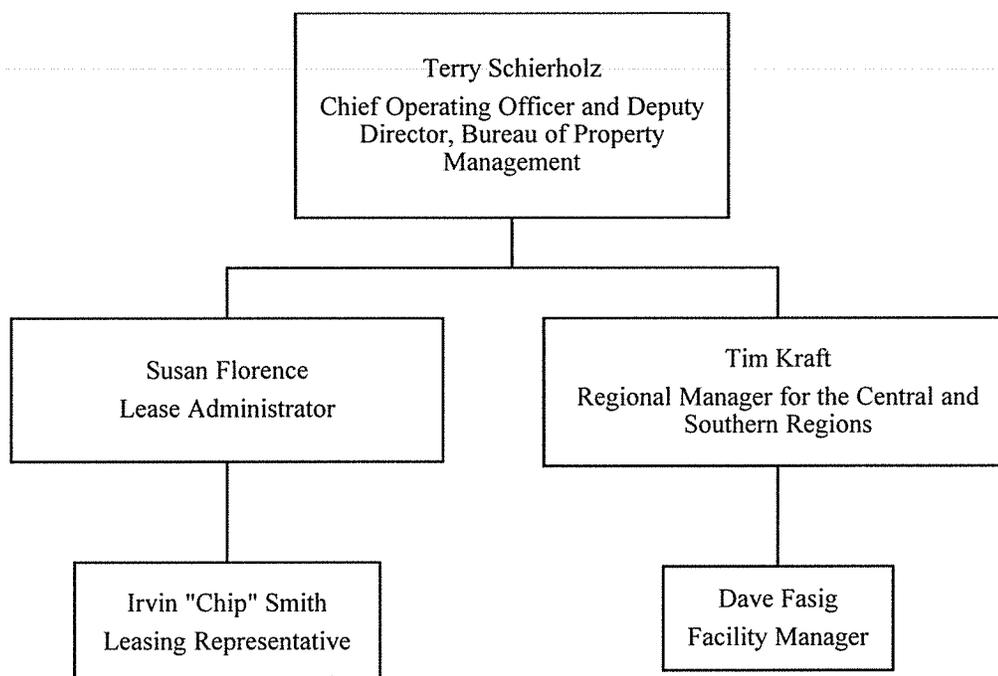
CMS is responsible for leasing or purchasing office and storage space for executive branch State agencies, with certain exceptions not relevant here.⁶ To that end, CMS receives user agency requests to lease space, evaluates lease proposals submitted by interested respondents, selects the lessor, and enters into the lease on behalf of the user agency. The following CMS personnel were involved in the process for procuring the State leases discussed in this investigation:

³ 30 ILCS 500/1-5 (1998); *see also* 44 Ill. Admin. Code § 1.5 (General Services Standard Procurement Rules).

⁴ 30 ILCS 500/1-10 & 40-5 (2015). The Procurement Code does not govern certain specifically exempted transactions not relevant here.

⁵ Executive Order No. 2016-01. To avoid confusion, this report will refer to BCCS and DoIT collectively as “BCCS/DoIT.”

⁶ 20 ILCS 405/405-300(a).



During the time relevant to this investigation, Deputy Director Terry Schierholz oversaw CMS’s Bureau of Property Management.

On the leasing side, Lease Administrator Susan Florence was responsible for overseeing leasing, including reviewing and initially approving leases. Leasing Representative Irvin “Chip” Smith was responsible for contacting people about solicitations, performing site suitability checks, negotiating care and maintenance issues for leases, drafting and signing CMS’s Final Selection Recommendation forms, working with the user agency to determine what needs to be done before the agency can move into the building, and managing the lease.

On the facility management side, Regional Manager for the Central and Southern Regions Tim Kraft oversaw State-owned properties and mental health facilities to ensure they were run properly. Dave Fasig was one Facility Manager who reported to Mr. Kraft.

B. Process For Procuring State Leases

The Procurement Code and corresponding regulations outline the required process for procuring a State lease. When a State agency seeks to initiate a procurement, it is first “responsible for determining need, and upon direction or request to provide a rationale to the [State Purchasing Officer] for the proposed transaction or activity before the procurement may commence.”⁷ State agencies are required to “evaluate the State’s existing lease portfolio,” in consultation with CMS, “prior to engaging in a procurement for real property or capital improvements.”⁸ In addition, CMS is required to survey existing State-owned and State-leased property to make a determination of need, prior to leasing or buying space.⁹

⁷ 44 Ill. Admin. Code § 1.1005(g) (2014).

⁸ 30 ILCS 500/40-5 (2015).

⁹ 20 ILCS 405/405-300(a) (2015).

Once CMS determines that a new lease is needed, the following process is required for selecting a property to lease:

1. A Request for Information is published, which “shall include: (1) the type of property to be leased; (2) the proposed uses of the property; (3) the duration of the lease; (4) the preferred location of the property; and (5) a general description of the configuration desired.”¹⁰
2. Responses to the Request for Information “shall consist of written information sufficient to show that the respondent can meet minimum criteria set forth in the request.”¹¹ Responses are publicly opened on the date specified in the Request for Information, and names of all parties submitting proposals (the respondents), are immediately made available to the public.¹²
3. The State Purchasing Officer may then enter into discussions with respondents to clarify State needs and the information supplied by the respondents.¹³
4. Based on the information supplied and discussions, if any, the State Purchasing Officer makes a written determination identifying the responses that meet the minimum criteria set forth in the Request for Information.¹⁴
5. Negotiations “shall be entered into with all qualified respondents for the purpose of securing a lease that is in the best interest of the State.”¹⁵ Site visits may also be made as part of the discussion and/or negotiation process.¹⁶
6. A “best and final” proposal may be requested from any respondent other than respondents that are “deemed non-responsive or who do[] not meet the minimum criteria set forth in the [Request for Information].”¹⁷
7. The State Purchasing Officer “shall review all relevant information and shall recommend to the [Chief Procurement Officer] which proposal shall be accepted based on the evaluation of all responsive proposals.”¹⁸ The Chief Procurement Officer makes the final award, which is published in the Illinois Procurement Bulletin; notification of the award is also sent to all respondents.¹⁹ A written report of the negotiations with

¹⁰ 30 ILCS 500/40-15(a) & 20(a)-(c) (2015); 44 Ill. Admin. Code §§ 1.4015(a) (2012) & 1.4020(a) & (d) (2014).

¹¹ 30 ILCS 500/40-20(d) (2015); *see also* 44 Ill. Admin. Code § 1.4020(e) (2014).

¹² 44 Ill. Admin. Code § 1.4020(e) (2014).

¹³ 30 ILCS 500/40-20(d) (2015); 44 Ill. Admin. Code § 1.4020(f)(1) (2014). As discussed further below, the State Purchasing Officer is appointed by the Chief Procurement Officer to review and approve State agency procurement activities. 44 Ill. Admin. Code § 1.1005(e) (2014); 30 ILCS 500/40-10 (1998); 30 ILCS 500/10-10(a) (2012).

¹⁴ 30 ILCS 500/40-20(d) (2015); 44 Ill. Admin. Code § 1.4020(f)(1) (2014).

¹⁵ 30 ILCS 500/40-20(d) (2015); 44 Ill. Admin. Code § 1.4020(f)(1) (2014).

¹⁶ 44 Ill. Admin. Code § 1.4020(f)(1) (2014).

¹⁷ 44 Ill. Admin. Code § 1.4020(f)(2) (2014).

¹⁸ 44 Ill. Admin. Code § 1.4020(g)(1) (2014).

¹⁹ 44 Ill. Admin. Code § 1.4020(g)(1) (2014).

respondents to a Request for Information for a lease shall be retained in the lease files, and “shall include the reasons for the final selection.”²⁰

8. For proposed leases for 10,000 or more square feet, or any proposed lease with annual rent payments of \$100,000 or more, the Procurement Policy Board has 30 days to review the proposed lease.²¹ The leasing agency “shall make any and all materials available to the [Procurement Policy] Board to assist in the review process.”²² Upon a three-fifths vote of its members, the Procurement Policy Board may review a proposal, bid, or contract and issue a recommendation to void a contract or reject a proposal or bid based on any violation of the Procurement Code, or the existence of a conflict of interest.²³
9. If the Procurement Policy Board does not object within 30 days, the lease becomes effective according to its terms as submitted.²⁴

Any solicitation “may be cancelled without penalty, . . . when it is in the best interests of the State in accordance with rules.”²⁵ In addition, if a contract is entered into in violation of the Procurement Code or any other law, the Chief Procurement Officer may declare it void, or may ratify and affirm it if doing so is in the best interests of the State.²⁶

C. Other Individuals And Entities That Play A Role In The Procurement Process For Leases

As discussed above, the State Purchasing Officer, Chief Procurement Officer, and Procurement Policy Board oversee the procurement process, to ensure that leases are properly awarded.²⁷

1. State Purchasing Officers and Chief Procurement Officers

State Purchasing Officers are appointed by the Chief Procurement Officer, to “act primarily to review, authorize and approve State agency procurement activities . . .,” including leases for

²⁰ 30 ILCS 500/40-20(d); *see also* 30 ILCS 500/20-155(c) (2015) (stating that the procurement file “shall contain a written determination, signed by the chief procurement officer or State purchasing officer, setting forth the reasoning for the contract award decision.”).

²¹ 30 ILCS 500/40-20(e) (2015).

²² 30 ILCS 500/40-20(e) (2015); *see also* 44 Ill. Admin. Code 1.4020(i) (2014).

²³ 30 ILCS 500/5-5(h) (2015).

²⁴ 30 ILCS 500/40-20(e) (2015).

²⁵ 30 ILCS 500/20-40 (2015).

²⁶ 30 ILCS 500/50-60(a) (2012).

²⁷ In addition, Procurement Compliance Monitors may be assigned by the Executive Ethics Commission or a Chief Procurement Officer to review procurements and report any finding of their review to the Executive Ethics Commission, the affected agency, and the Chief Procurement Officer responsible for the affected agency. *See* 30 ILCS 500/10-15(b). A Procurement Compliance Monitor was initially directed to examine the DHS and BCCS/DoIT leases but, according to a report issued by the Office of the Auditor General, the Procurement Compliance Monitor subsequently was directed to suspend his examination when the OEIG began its investigation. Accordingly, the OEIG did not examine the Procurement Compliance Monitor’s role further.

real property.²⁸ Chief Procurement Officers are appointed by the Executive Ethics Commission for each of four categories of procurements, including General Services.²⁹ Each Chief Procurement Officer “shall exercise all procurement authority created by [the Procurement] Code,” and owes a fiduciary duty to the State.³⁰

The Procurement Code charges State Purchasing Officers and Chief Procurement Officers with the “express duty . . . to maximize the value of the expenditure of public moneys in procuring goods, services, and contracts for the State of Illinois and to act in a manner that maintains the integrity and public trust of State government.”³¹ In fulfilling this duty, “they are charged to use all available information, reasonable efforts, and reasonable actions to protect, safeguard, and maintain the procurement process of the State of Illinois.”³²

The State Purchasing Officer, Deputy Chief Procurement Officer, and Chief Procurement Officer responsible for overseeing the procurements involved in this investigation were:

Arthur Moore Then-Senior State Purchasing Officer, General Services

Jan Morrow Deputy Chief Procurement Officer, General Services

Ellen Daley Chief Procurement Officer, General Services

2. Procurement Policy Board

The Procurement Policy Board is a State agency responsible for “review[ing], comment[ing] upon, and recommend[ing], consistent with [the Procurement Code], rules and practices governing the procurement, management, control, and disposal of . . . real property and capital improvement leases procured by the State,” among other types of procurements.³³

III. INVESTIGATION

This investigation examined the process by which leases were awarded to Climate Controlled Holdings and MGM Jefferson, as well as the impact irregularities in that process had on a lease that was ultimately awarded to BJD Properties. Because this investigation revealed that the process used in awarding these leases was contrary to the Procurement Code’s principles of competition and transparency, the OEIG also examined the oversight of these procurements by the Chief Procurement Office and Procurement Policy Board.

As discussed in further detail below, the investigation revealed that after a request was published seeking 26,000 square feet of largely warehouse space for DHS, a lease for 60,158

²⁸ 44 Ill. Admin. Code § 1.1005(e) (2014); 30 ILCS 500/40-10 (1998); 30 ILCS 500/10-10(a) (2012).

²⁹ 30 ILCS 500/10-20(a) (2015).

³⁰ 30 ILCS 500/10-5 (2010) & 10-20(d) (2015). A 2017 amendment to the Procurement Code, which took effect after the events discussed in this report, also imposed a fiduciary duty on State Purchasing Officers. *See* 30 ILCS 500/10-10(c) (eff. Aug. 9, 2017).

³¹ 30 ILCS 500/50-1 (1998); *see also* 44 Ill. Admin. Code § 1.5 (2014).

³² 30 ILCS 500/50-1 (1998).

³³ 30 ILCS 500/5-5(a) & (b) (2015).

square feet of warehouse space for DHS was ultimately awarded to Climate Controlled Holdings, which had submitted a proposal offering 44,000 square feet of office and warehouse space in response to a different request. At the same time, after a request was published seeking 44,000 square feet of office and warehouse space for BCCS/DoIT, a lease for 24,210 square feet of office and warehouse space for BCCS/DoIT was ultimately awarded to MGM Jefferson, which had submitted a proposal offering 24,210 square feet of warehouse space in response to a different request. Finally, although MGM Jefferson was the lowest-cost respondent on a third lease, it was not awarded that lease because the property it offered for the third lease had been selected for the BCCS/DoIT lease.

The process used to procure the DHS warehouse lease and BCCS/DoIT office/warehouse lease is summarized in the chart on the following page, and then is discussed in greater detail below.

Warehouse Lease (DHS)

Office/Warehouse Lease (BCCS/DoIT)

Total Space Requested: 26,000 sq. ft.
Warehouse, offices for 4 staff
Requested for DHS

Total Space Requested: 44,000 sq. ft.
Offices for 155 staff, warehouse
Requested for BCCS/DoIT

4 Proposals Received
MGM Jefferson
MBA Enterprises
BJD Properties
Hillier Storage & Moving

2 Proposals Received
Both from Climate Controlled Holdings

Selection: MGM Jefferson
Harbor Freight Property
24,210 sq. ft. warehouse
Total rent: \$926,025

Selection: Climate Controlled Holdings
Barney's Furniture Property
44,000 sq. ft. offices and warehouse
Total rent: \$4,131,600



MGM Jefferson's Harbor Freight Property swapped to the BCCS/DoIT office/warehouse request

Climate Controlled Holdings' Barney's Furniture Property swapped to the DHS warehouse request



Final Award: Climate Controlled Holdings

- Barney's Furniture Property
- 60,158 sq. ft. of warehouse space for DHS
- Total rent: \$2,429,782

Final Award: MGM Jefferson

- Harbor Freight Property
- 24,210 sq. ft. of office and warehouse space for BCCS/DoIT
- Total rent: \$2,041,498

A. Search For Warehouse Space For DHS

In September 2015, DHS began the process of seeking new warehouse space to house its records. Prior to that time, DHS had stored some of its records at Dwight Correctional Center, a closed prison, under a 2014 Interagency Agreement with CMS that allowed DHS to use approximately 71,871 square feet of warehouse space in four buildings there. Rent for using the space at Dwight was waived. DHS also stored records at its various local offices.

1. DHS's Request for Warehouse Space

Investigators interviewed Jim Stavrou, who has been Assistant Director of DHS's Office of Business Services since August 2015.³⁴ Mr. Stavrou said that shortly after he started in that position, he reviewed an email from a DHS Regional Administrator regarding the conditions under which DHS records were being stored at Dwight Correctional Center. Mr. Stavrou showed the investigators the email and attached summary, which had been forwarded to him by CMS Statewide Facility Manager Rick Tate on August 26, 2015. The summary described a site visit the Regional Administrator made to Dwight on August 17, 2015, and detailed issues such as mold, inoperative air conditioning, offensive odors, wasps, and a leaking roof.

According to Mr. Stavrou, Mr. Tate said that he (Mr. Stavrou) needed to create a Space Request seeking a warehouse to store the records that were then being stored at Dwight Correctional Center. Mr. Stavrou said that Mr. Tate gave him the amount of square footage to put in the Space Request -- 25,000 square feet -- which he said later turned out to be wrong. Mr. Stavrou said he was not aware of DHS making any attempt to determine how much space it was using at Dwight Correctional Center and explained that no one would have measured the space DHS was using there because DHS was not paying rent for the space by the square foot. Mr. Stavrou said he completed the Space Request and submitted it to CMS Bureau of Property Management Lease Administrator Susan Florence. Mr. Stavrou said he was not part of any cost benefit analysis to determine whether the space at Dwight Correctional Center could be made suitable for records storage.

The OEIG obtained the Space Request form, which was dated September 9, 2015. In the form, DHS requested 26,292 square feet of space in central Illinois, including 25,000 square feet of storage space, and 1,292 square feet of personnel and common office space. DHS explained that it was requesting the new space "[d]ue to the horrible conditions of the present storage area at the Dwight Correctional Facility," and stated that the new space would also allow it to consolidate the records it was storing at Dwight with the records that remained at the local offices.

The OEIG asked DHS to produce any quotes, estimates, or cost-benefit analyses detailing the requirements necessary for continuing to maintain DHS records at Dwight Correctional Center. DHS produced no documents in response to this request, explaining that "DHS had no input with respect to this decision. CMS instructed us to relocate -- any information regarding this would have to be provided by them."

³⁴ Mr. Stavrou was interviewed on August 2, 2017.

2. CMS Review of DHS's Request for Warehouse Space

a. Interview of CMS Regional Manager Tim Kraft

Investigators interviewed Tim Kraft, who has been the CMS Bureau of Property Management Regional Manager for the Central and Southern Regions since approximately 2011.³⁵ Mr. Kraft said that he reported to Bureau of Property Management Deputy Director Terry Schierholz until Mr. Schierholz retired at the end of 2016.

Mr. Kraft explained that when an agency requests space, Ms. Florence assigns a CMS Facility Manager to take measurements and photographs of the space the agency is currently using. He said the Facility Manager then completes a "PMBC" form³⁶ with the information and submits it to Ms. Florence through CMS's shared computer drive.³⁷ Mr. Kraft said that the PMBC form ideally should be completed as soon as a Space Request comes to CMS, and that it is supposed to be done before the Request for Information is issued. Mr. Kraft explained that sometimes agencies ask for too much space, and the PMBC form is done to make sure the Request for Information uses the correct amount.

Mr. Kraft said he did not know if a PMBC form was completed for Dwight Correctional Center as soon as DHS's Space Request came to CMS, but said that at some point Facility Manager Dave Fasig went to Dwight and determined that the proposed location for relocating the files would be too small for DHS's needs.³⁸ Mr. Kraft said that the PMBC form should be kept on file.

b. Interview of CMS Lease Administrator Susan Florence

The OEIG interviewed Susan Florence, who was the Lease Administrator for CMS's Bureau of Property Management.³⁹ Ms. Florence said she reported to Deputy Director Terry Schierholz until he left CMS.

Ms. Florence said that when CMS receives a Space Request, if the agency is already in an existing location, a site evaluation is conducted to get a better picture of the agency's needs. When asked if CMS did a site evaluation of the DHS space before the Request for Information was issued, she said that it did happen. Ms. Florence said that Facility Manager Dave Fasig probably should have done the DHS site evaluation and reviewed the Interagency Agreement, which listed the square footage DHS was using at Dwight. Ms. Florence said the square footage in use should have been accounted for, with the exception of files that were added after the Request for Information was issued.

Following her interview, the OEIG asked Ms. Florence to produce any DHS site evaluation forms for the DHS records storage at Dwight Correctional Center. Ms. Florence subsequently

³⁵ Mr. Kraft was interviewed on October 19, 2017.

³⁶ It appears that Mr. Kraft was referring to the "Property Management Business Case" form.

³⁷ Mr. Kraft said that the Facility Managers report to him, but that Ms. Florence handles the PMBC process, and he is just copied on the communications about them.

³⁸ That proposed location was MGM Jefferson's Harbor Freight Property, which is discussed below.

³⁹ Ms. Florence was interviewed on September 27, 2017. She retired at the end of 2018.

responded: “Although I’m certain that the CMS Facility Manager visited the site, I’ve not been able to locate any written documentation of that initial visit.”

3. CMS Review of Options Other Than Leasing New Space for DHS

Investigators reviewed documents and interviewed CMS personnel regarding what efforts CMS made to determine whether there was State-owned property that could satisfy DHS’s needs, and whether CMS conducted a cost-benefit analysis to determine whether it would be more cost-effective to renovate DHS’s existing space at Dwight or purchase property, rather than leasing property.

In a September 15, 2015 memorandum to Mr. Schierholz, Ms. Florence stated that State-owned and leased spaces were researched for vacant space, but that none met the search criteria of having available storage space of at least 26,000 square feet in the desired location.

The OEIG interviewed Irvin “Chip” Smith, Jr., who had been a CMS Leasing Representative since August 2015.⁴⁰ Mr. Smith told investigators that CMS did not analyze whether it was cheaper to lease new property instead of renovating Dwight, and that Ms. Florence and Mr. Schierholz thought it would be too expensive to renovate the space at Dwight based on their generalized knowledge of the cost to repair things. Mr. Smith also said CMS did not analyze the cost of purchasing the property instead of leasing it and noted that CMS never does such an analysis.

In his OEIG interview, Mr. Kraft said he is not aware of anyone conducting a cost-benefit analysis to determine how much it would have cost to renovate Dwight. In addition, Mr. Kraft said that in the past, CMS has not done cost comparisons between the cost of buying and leasing property, although he said CMS was preparing to issue a Request for Proposal to have a third party do such comparisons in the future. Mr. Kraft said that CMS does not have appropriated funds to buy properties, and noted that owning property has other costs, such as maintenance and repairs, for which the State does not have funding.

Ms. Florence said that when DHS raised issues with CMS about Dwight Correctional Center and said that they wanted to move the records to a new location, DHS said that the costs to improve Dwight were too high. Ms. Florence said she did not know what it would have cost to make repairs at Dwight Correctional Center, and she did not know who determined that it would be more expensive to improve Dwight Correctional Center than to lease a new space.

Investigators interviewed former CMS Bureau of Property Management Chief Operating Officer and Deputy Director Terry Schierholz.⁴¹ Mr. Schierholz said that he held that position for five or six years, until he retired in December 2016. In his interview, Mr. Schierholz said that he did not believe any cost benefit analysis was ever done to compare the cost of making Dwight Correctional Center suitable for the file storage versus leasing a new facility. He said he thought it was not done because Dwight Correctional Center was a closed facility. Mr. Schierholz said his

⁴⁰ Mr. Smith was interviewed on May 23, 2018. He left State employment shortly after his OEIG interview, in June 2018.

⁴¹ Mr. Schierholz was interviewed on November 13, 2017.

opinion was that it would have cost more to fix Dwight Correctional Center than to move to a new facility, but he acknowledged that he was not aware of there ever being a cost-benefit analysis conducted regarding buying and leasing property.

In a July 18, 2017 letter to the OEIG, then-CMS Bureau of Property Management Deputy Director Josh Potts⁴² told the OEIG that the CMS staff who managed the Dwight property and other facilities around the State “used their knowledge of the property and their extensive experience regarding the maintenance of state property to determine that the cost outweighed the benefits of maintaining DHS files at that location.” Mr. Potts provided a summary of various disadvantages of keeping the records at Dwight, including the capital costs of “[e]xtensive building rehab to address significant issues including HVAC, roofing, and ADA accessibility.” The summary did not quantify these costs, however.

4. Request for Information for a Warehouse Lease for DHS

On December 1, 2015, a Request for Information was published for a lease of warehouse space for DHS, under CMS Lease Number 6628.⁴³ The Request for Information summarized the space DHS needed as 26,000 square feet of climate-controlled warehouse space in Champaign, Ford, Livingston, Logan, Macon, McLean, Peoria, or Sangamon Counties. The Request stated that “[i]f the State issues an award, the award will be made to the Responsive Offeror and most Responsible Offeror whose Offer best meets the specified criteria unless otherwise permitted by the Procurement Code and Administrative Code.”

The Request for Information package also contained a document called “Agency Programmed Requirements.” These Agency Programmed Requirements detailed the specific personnel, office, and storage space being sought for DHS based upon what the agency’s needs had been determined to be. The Request described the Agency Programmed Requirements as “a substantial and primary document,” and cautioned that “the Offeror is advised to review and heed the information contained therein as a condition of Offering to lease real property to the State.” The Agency Programmed Requirements detailed the “spatial guidelines required by [CMS],” including:

- 25,000 square feet of warehouse space;
- 1,000 square feet of office and personnel space for 1 private office, 3 private work stations, a file server room, employee restrooms, and general circulation and standard office equipment space; and
- 3 parking spaces.

⁴² Mr. Potts replaced Mr. Schierholz in that position, after Mr. Schierholz left State employment at the end of 2016. Mr. Potts was not in that position at the time CMS issued the Request for Information for the DHS warehouse lease.

⁴³ Leases are assigned a CMS number during the leasing process, which appears on the Request for Information, responses to the Request, Notice of Award, and the executed lease, among other documents. The documents the OEIG obtained in the investigation indicated that the solicitation for DHS warehouse space had previously been issued but was cancelled and reissued after an offer had been inadvertently opened prematurely.

The Agency Programmed Requirements also included a section titled “Expansion Option – Optional if Space is Available,” which stated:

In addition to the Proposed Leased Facility that is the subject of this Request for Information, the State seeks an EXPANSION OPTION of up to 100% of the remaining rentable square footage of the building proposed. The Expansion Option shall be exercisable by the State following the lease date under the same terms and conditions of the lease.⁴⁴

5. Responses to Request for Information for a Warehouse Lease for DHS

Ms. Florence said that after CMS receives responses to a Request for Information, they are evaluated for responsiveness and proper documentation, and that if multiple offers are received, the respondents are asked to submit a Best and Final Offer.

CMS received four proposals in response to the Request for Information for the warehouse lease for DHS, which were opened on December 15, 2015. Ms. Florence told investigators that all four proposals were deemed to be responsive. The respondents were invited to submit a Best and Final Offer. The proposals (incorporating the Best and Final Offers, if any) were:

Respondent	Space	Location	Total Rent⁴⁵
MGM Jefferson	24,210 sq. feet (warehouse)	W. Jefferson Street, Springfield (Harbor Freight Property)	\$926,025
MBA Enterprises	26,000 sq. ft. (office/warehouse)	County Fair Drive, Champaign	\$1,037,192
BJD Properties	21,000 sq. ft. (warehouse)	Split between Eastdale Avenue and Stevenson Drive, Springfield	\$1,155,000
Hillier Storage & Moving	26,000 sq. ft. (warehouse)	11 th Street, Springfield	\$1,506,310

6. March 2016 Site Visits and DHS Space Needs Reassessment

Ms. Florence told investigators that following a cost analysis, in which a CMS fiscal employee ranks the offers based solely on price, the Bureau of Property Management Deputy Director approves some or all of the offers for site suitability visits.⁴⁶ Ms. Florence said that the assigned Leasing Representative then visits the sites with a representative of the user agency.

In his OEIG interview, DHS Assistant Director for Business Services Jim Stavrou told investigators that in approximately March 2016, he visited two proposed sites with CMS Leasing Representative Chip Smith, one of which was an old YMCA or gym in Champaign. Mr. Stavrou

⁴⁴ Emphasis added.

⁴⁵ This is the total rent amount for the five-year lease.

⁴⁶ Mr. Smith explained in his OEIG interview that a site suitability visit is done before a lease is executed, to make sure the proposed location is as described and is suitable.

said that, while he estimated that the Champaign site was around the 25,000 square feet DHS had requested, it appeared to him to be far too small to meet DHS's needs.

Mr. Stavrou said he told Mr. Smith that the Champaign site was too small and asked if DHS's existing space at Dwight Correctional Center could be measured. Mr. Stavrou said that CMS's Facility Manager for Dwight Correctional Center then measured the space and determined that the DHS records were occupying about 37,000 square feet and would need at least 39,000 square feet. Mr. Stavrou explained that DHS needed more space than the amount then being used, to be compliant with the Americans with Disabilities Act, because the records were packed too tightly at Dwight Correctional Center to allow wheelchair access.

Mr. Stavrou said that the other site he visited with Mr. Smith was MGM Jefferson's Harbor Freight Property, in Springfield, and that his supervisor, Paul Hartman, also came. Mr. Stavrou said he and Mr. Hartman discussed that, in addition to the records being stored at Dwight Correctional Center, DHS had more records at local offices that would need to be relocated as well, and they agreed that a site with 40,000 square feet would be suitable for the current records and would leave some room for expansion. Mr. Stavrou said he told CMS that the Harbor Freight Property was very tight because it did not have room to accommodate records then being maintained in local DHS offices or any room for future expansion; however, he said he told CMS that if it had to work it would work. Mr. Stavrou said he did not recall whether CMS's measurement of the space DHS was occupying at Dwight Correctional Center occurred before or after the site visit to MGM Jefferson's Harbor Freight Property.

7. Initial Selection of MGM Jefferson's Harbor Freight Property Proposal for the Warehouse Lease for DHS

Ms. Florence told investigators that after the site suitability visits are completed, the CMS Leasing Representative completes a Selection Recommendation Form for the Deputy Director's approval. Investigators obtained the Selection Recommendation Form for the DHS warehouse lease, which contained the signature of Leasing Representative Chip Smith, dated April 11, 2016, and indicated that it was approved by Deputy Director Terry Schierholz on April 18, 2016. In the form, Mr. Smith recommended selecting MGM Jefferson's Harbor Freight Property proposal as the best and lowest offer for the DHS warehouse lease. The justification section of the form stated that the Harbor Freight Property's location was good, and that the dock availability and warehouse space on grade level made the property "well suited for agency needs."

Ms. Florence said that after the Deputy Director approves the recommendation, it is sent to the State Purchasing Officer, who publishes a selection notice. The documents reflect that on April 20, 2016, a Notice was published stating that CMS had selected MGM Jefferson's Harbor Freight Property offer as "the Offer representing the best interest of the State." Ms. Florence told investigators that MGM Jefferson's Harbor Freight Property proposal was chosen because it was the lowest-cost offer and met DHS's 25,000-square-foot space requirement.

According to Ms. Florence, after the selection notice is published, negotiations are conducted with the selected respondent for buildouts, improvements, and other issues. Ms. Florence said that a CMS employee does a Fair and Reasonable Cost Analysis, to determine if any

proposed construction costs are reasonable. Ms. Florence said that after terms are negotiated, the Leasing Representative completes a Final Recommendation Form, and the Bureau of Property Management's Chief Financial Officer and the Deputy Director also approve it. Ms. Florence said that the lease is then drafted and sent to the lessor for signature. The Final Recommendation Form and the lease of warehouse space for DHS are discussed further following the below discussion of the lease of office and warehouse space for BCCS/DoIT.

B. Search For Office And Warehouse Space For BCCS/DoIT

At around the same time that DHS began seeking warehouse space to move its records from Dwight Correctional Center, BCCS/DoIT began the process for seeking space to move its staff and equipment. At that time, BCCS/DoIT's Technology Center staff were housed in an Illinois Department of Agriculture building on the Illinois State Fairgrounds in Springfield, and certain BCCS/DoIT equipment was stored at a warehouse in another location in Springfield.

1. BCCS/DoIT's Request for Office and Warehouse Space

Investigators interviewed Jonelle Brent, who was BCCS/DoIT's Chief of Staff from approximately 2012 until 2016 and has since been intermittently working for BCCS/DoIT in other capacities.⁴⁷ Ms. Brent said that she completed a Space Request for obtaining a new site for BCCS/DoIT after the Department of Agriculture informed CMS that BCCS/DoIT would no longer be able to use the State Fairgrounds building. Ms. Brent said her Space Request was for a site having both office and warehouse space because BCCS/DoIT wanted to consolidate its Technology Center and equipment warehouse into one site for efficiency. Ms. Brent said she used a worksheet on the Space Request Form to determine the amount of space BCCS/DoIT would need, based on the number of employees and their titles.

The OEIG obtained the Space Request form, which was signed by Ms. Brent on September 14, 2015. In the form, BCCS/DoIT requested 45,107 square feet of space in Springfield for information technology and telecommunications support, including 27,407 square feet of personnel and common office space for 155 staff members, and 17,700 square feet of storage space.

2. CMS Review of BCCS/DoIT's Request for Office and Warehouse Space

In a September 15, 2015 memorandum to Terry Schierholz, Susan Florence stated that BCCS/DoIT had submitted a request for approximately 43,000 square feet of office and warehouse space. She advised Mr. Schierholz that State-owned and leased spaces were researched for vacant space, but that none met her search criteria of having available office space or warehouse space of at least 32,000 square feet in Springfield.

⁴⁷ Ms. Brent was interviewed on August 3, 2017.

3. Request for Information for a Lease of Office and Warehouse Space for BCCS/DoIT

On January 20, 2016, a Request for Information was published for a lease of space for BCCS/DoIT, under CMS Lease Number 6627.⁴⁸ The Request for Information summarized the needed space as 44,000 square feet of office and climate-controlled warehouse space in Springfield, Illinois. This Request for Information provided the same description of the standard for evaluation and issuance of the award as the Request for Information for warehouse space for DHS.

The “Agency Programmed Requirements” in the Request for Information package for the lease of space for BCCS/DoIT detailed the specific personnel, office, and storage space being sought for BCCS/DoIT based upon what the agency’s needs had been determined to be. Specifically, these Agency Programmed Requirements detailed the “spatial guidelines required by [CMS]” as including:

- 24,300 square feet of office and personnel space for
 - 17 private offices
 - 136 private work stations
 - 2 clerical work stations
 - 2 conference rooms
 - a file server room
 - a copy/mail room
 - employee break rooms and restrooms
 - a reception/public waiting area, and
 - general circulation and standard office equipment space;
- 19,700 square feet of storage space for four supply rooms, a PC/Imaging/Repair Room, and warehouse and storage open space; and
- 23 parking spaces.

The Agency Programmed Requirements included the same “*Expansion Option – Optional if Space is Available*” section, which stated that the option was exercisable by the State “following the lease date.”

4. Responses to Request for Information for the Lease of Office and Warehouse Space for BCCS/DoIT

CMS received two proposals in response to the Request for Information seeking to lease office and warehouse space for BCCS/DoIT, which were opened on February 24, 2016. Because both proposals were from the same respondent, no Best and Final Offers were requested. The proposals were:

⁴⁸ Ms. Florence told investigators that this solicitation had been issued two previous times, but the first two solicitations did not receive any bids.

Respondent	Space (sq. ft.)	Location	Total Rent ⁴⁹
Climate Controlled Holdings	44,000	South Grand Avenue, Springfield	\$4,131,600
Climate Controlled Holdings	44,000	Taylor Place, Springfield	\$7,253,400

Ms. Florence told investigators that both proposals were deemed to be responsive to the Request for Information. She noted that Climate Controlled Holdings' South Grand Avenue property was a former Barney's Furniture building (Barney's Furniture Property), and the Taylor Place property was a vacant lot, and would require new construction.

5. Climate Controlled Holdings and William "Bill" Cellini

Climate Controlled Holdings is a Limited Liability Company organized in Illinois on February 22, 2016. On February 23, 2016, the day before its proposals for the lease of office and warehouse space for BCCS/DoIT were opened, it entered into a contract to buy the Barney's Furniture Property for \$650,000. Climate Controlled Holdings' Articles of Organization state that its management is vested in three members, including Andiamo Development LLC.⁵⁰

Investigators reviewed Climate Controlled Holdings' financial disclosures in support of the lease, and its Operating Agreement dated September 19, 2016. Those documents indicate that Andiamo Development holds a 33-1/3% ownership interest in the company. The documents further indicate that a Raffi Vartanian is a Member Manager of Andiamo Development, identify him as the "Person in Current Control" of Andiamo Development as of September 19, 2016, and state that he is entitled to receive more than 7-1/2% of the total distributable income of Climate Controlled Holdings. Mr. Vartanian is married to Claudia Cellini, the daughter of William "Bill" Cellini. Mr. Cellini is not listed in the financial disclosures as having an ownership interest in Climate Controlled Holdings.⁵¹

William Cellini is a real estate developer and reputed political power broker in Illinois.⁵² In 2011, Mr. Cellini was convicted in federal court of conspiring to commit extortion, and soliciting a bribe, for conveying a threat to the principal of a real estate asset management company that an allocation of State pension funds to the company would be blocked if the company did not contribute to then-Governor Rod Blagojevich's campaign.⁵³ In 2012, Mr. Cellini was sentenced to serve one year and one day in federal prison, followed by two years of supervised release. Mr. Cellini was released from prison in 2013 and was granted early termination of his supervised

⁴⁹ This is the total rent amount for the five-year lease.

⁵⁰ The other two members listed were John P. Pruitt and Joseph M. Hurwitz.

⁵¹ The OEIG also reviewed the annual reports for the companies associated with Mr. Cellini's family members for references to the owners and officers of MGM Jefferson and BJD Properties, which received the other leases examined in this investigation. None of those individuals were listed on any of the annual reports for companies associated with the Cellini family.

⁵² See, e.g., Rob Wildeboer, *The most influential Illinoisan you don't know: Bill Cellini*, WBEZ Eight Forty-Eight, Oct. 3, 2011, <https://www.wbez.org/shows/eight-fortyeight/the-most-influential-illinoisan-you-dont-know-bill-cellini/e36b85d2-f069-4ed5-83cf-a5cf5fe31a5d>; John McCarron, *Where the Rubber Meets the Road in Illinois*, Chicago Tribune, Sept. 22, 1997, <https://www.chicagotribune.com/news/ct-xpm-1997-09-22-9709220120-story.html> (last visited Nov. 15, 2018).

⁵³ See *U.S. v. Cellini*, 08 CR 888 (N.D. Ill.).

release on December 8, 2014. As a consequence of his felony convictions, Mr. Cellini is prohibited from doing business with the State of Illinois or any State agency until five years after the date he completed his sentence, that is, until at least December 8, 2019.⁵⁴

Climate Controlled Holdings answered “No” to the question in the lease disclosures as to whether anyone with an ownership share over 5% had a felony conviction within the previous ten years, and as noted above, Mr. Cellini is not listed as an owner of that company. However, in reviewing the leasing file for the lease CMS ultimately entered into with Climate Controlled Holdings, the OEIG found an email that had been forwarded to Susan Florence at CMS:

Date: October 27, 2016, 11:30 a.m.
From: Joe Hurwitz⁵⁵
To: Patrick Somers⁵⁶
Cc: William Cellini, John Pruitt⁵⁷
Subject: Barney’s - Contract

Mr. Hurwitz wrote, in part: “Please find attached the Contract of Sale for the Barney’s Furniture property which has been executed by [redacted].”

The discovery of this email prompted the OEIG to request any other emails from January 1, 2015 to October 1, 2017 containing Mr. Cellini’s email address from State email accounts of the various agencies involved in the leases examined in this investigation. The OEIG found a total of eight emails on which Mr. Cellini was either a recipient or copied, and that found their way to either Mr. Smith, Ms. Florence, or both of them. One was the email from the lease file discussed above. All eight are listed in this table:

⁵⁴ See 30 ILCS 500/50-10(a) (2015). Although the 2015 version of the Procurement Code did not define “completion of sentence,” a 2017 amendment clarified that it means the completion of all sentencing related to the conviction, including mandatory supervised release. 30 ILCS 500/50-10(a) (eff. Aug. 9, 2017).

⁵⁵ As noted above, Mr. Hurwitz was a member of Climate Controlled Holdings at the time it was organized.

⁵⁶ Mr. Somers is a Vice President of 3GEN Management, the company that manages Andiamo Development. Mr. Somers also is a Senior Vice President of New Frontier Developments, a company for which Claudia Cellini is the President and Raffi Vartanian is a Vice President; Mr. Cellini’s sentencing memorandum filed in his criminal case noted that Mr. Cellini formed that company. See *U.S. v. Cellini*, 08 CR 888, Defendant’s Submission with Respect to Sentencing Factors Set Forth in 18 U.S.C. § 3553, at 22 (filed Sept. 27, 2012).

⁵⁷ As noted above, Mr. Pruitt was a member of Climate Controlled Holdings at the time it was organized.

Date	From	To	Cc	Subject	Content	How CMS Received
August 29, 2016	Joe Hurwitz	Chip Smith	William Cellini; Patrick Somers; John Pruitt	RE: Barney's – Window coverings	Mr. Hurwitz tells Mr. Smith that it should not be a problem for Climate Controlled Holdings to provide window coverings at Barney's.	Chip Smith was a direct recipient.
September 13, 2016, 2:04 p.m.	Joe Hurwitz	Chip Smith	William Cellini; Patrick Somers; John Pruitt	Barney's Building Lease	Mr. Hurwitz tells Mr. Smith what the signature blocks for the Barney's lease should read.	Chip Smith was a direct recipient.
September 13, 2016, 3:02 p.m.	Patrick Somers	Joe Hurwitz; Chip Smith	William Cellini; John Pruitt	RE: Barney's Building Lease	Mr. Somers makes a correction to the signature blocks from the previous email.	Chip Smith was a direct recipient.
September 13, 2016, 3:28 p.m.	John Pruitt	Patrick Somers	Joe Hurwitz; Chip Smith; William Cellini	Re: Barney's Building Lease	Mr. Pruitt thanks Mr. Somers.	Chip Smith was copied.
September 16, 2016	Joe Hurwitz	Patrick Somers	William Cellini; John Pruitt	Building Size	Mr. Hurwitz sends Mr. Somers a document establishing the size of the building as 60,670 square feet.	Forwarded to Chip Smith and Susan Florence on September 16, 2016.
September 30, 2016	Mimi Hurwitz	Patrick Somers; William Cellini		Coring Report	Ms. Hurwitz sends a coring report stating that a slab meets the State's specifications.	Forwarded to Chip Smith and Susan Florence on October 3, 2016.

October 27, 2016	Joe Hurwitz	Patrick Somers	William Cellini; John Pruitt	Barney's – Contract	Mr. Hurwitz sends the contract of sale from the previous owners of Barney's to Climate Controlled Holdings.	Forwarded to Susan Florence on October 27, 2016.
November 10, 2016	Joe Hurwitz	Chip Smith; Paul Hartman	Tim Smith; John Pruitt; William Cellini; Patrick Somers; Mini Hurwitz; [redacted]	2410 South Grand Avenue East, Springfield, IL (Old Barney's Furniture Building)	Mr. Hurwitz sends Mr. Smith and Mr. Hartman a copy of the plans for the building.	Chip Smith was a direct recipient.

6. Concerns Communicated By BCCS/DoIT

In the spring of 2016, following CMS's receipt of Climate Controlled Holdings' proposals in response to the Request for Information seeking a lease of office and warehouse space for BCCS/DoIT, BCCS/DoIT staff expressed concerns that the Barney's Furniture Property was not suitable for BCCS/DoIT's needs. For example, after a walkthrough of the property, on March 24, 2016, BCCS/DoIT's End User Computing Manager emailed Mr. Smith that the site lacked a loading dock, had insufficient parking and restrooms for 155 staff, and was in an unsafe neighborhood. In her OEIG interview, former BCCS/DoIT Chief of Staff Jonelle Brent told investigators that she also had a conversation with CMS's Acting Director about these concerns.

In addition, in a May 18, 2016 email to Mr. Smith, BCCS/DoIT's Chief Customer Officer noted that BCCS/DoIT was evolving into a new agency, and that he did not know how many additional staff there would be or what other facilities may be available when BCCS/DoIT assimilated other agencies. He stated that he wanted to postpone any moves or plans until "we are immersed into the new agency and have a better understanding of the required infrastructure."

7. Initial Selection of Climate Controlled Holdings' Barney's Furniture Property Proposal for the Office/Warehouse Lease for BCCS/DoIT

Despite BCCS/DoIT's concerns, on April 20, 2016, a Notice was published stating that CMS had selected Climate Controlled Holdings' offer for the Barney's Furniture Property as "the Offer representing the best interest of the State."

C. CMS Staff Discuss A Swap

1. Emails Discussing a Swap

On July 8, 2016, Ms. Florence sent an email to Mr. Schierholz about the DHS and BCCS/DoIT transactions. Ms. Florence referenced discussions she and Mr. Schierholz had about the matters the previous day, July 7, 2016.

In the email, Ms. Florence noted that BCCS/DoIT was “not particularly happy” with Climate Controlled Holdings’ Barney’s Furniture Property, BCCS/DoIT’s space needs may be changing, and that DHS “is now convinced that the [MGM Jefferson Harbor Freight Property] will not even hold all of the current Dwight files, much less provide any room to grow.” Ms. Florence recommended “[u]tiliz[ing] the Barney’s Furniture location for the DHS files,” and “[u]tiliz[ing] the West Jefferson location [Harbor Freight Property] for the BCCS records and document warehouse,” with the BCCS/DoIT staff remaining in their current location until their actual space needs could be determined and a new Request for Information issued.

On August 10, 2016, Ms. Florence emailed Mr. Schierholz “Revised Selection Recommendations,” for “using agency substitution at Barney’s and [Harbor Freight].” Later that day, Mr. Schierholz replied to Ms. Florence’s email by writing, “Approved.”

2. Ms. Florence’s Interview

In her OEIG interview, Ms. Florence told investigators that DHS Assistant Director Jim Stavrou called her after he visited MGM Jefferson’s Harbor Freight Property and said there was no way DHS could make the space work because it was too small for the files DHS already stored at Dwight Correctional Center, and there was no room for expansion. She said that around the same time, BCCS/DoIT employees were complaining about Climate Controlled Holdings’ Barney’s Furniture Property. According to Ms. Florence, she showed Mr. Stavrou the Barney’s Furniture Property, and DHS loved it. She said that after she showed BCCS/DoIT employees MGM Jefferson’s Harbor Freight Property, BCCS/DoIT crunched the numbers and revised its Space Request to accommodate the smaller building; nevertheless, according to Ms. Florence, BCCS/DoIT was thrilled with the space.

Ms. Florence said that substituting the user agencies for the two leases was her idea, and that she first suggested the idea to Bureau of Property Management Regional Manager Tim Kraft.⁵⁸ Ms. Florence said that after she and Mr. Kraft discussed it, she made the same suggestion to Bureau of Property Management Deputy Director Terry Schierholz, who approved it. When asked what authority CMS had to take this action, Ms. Florence said that CMS is the procuring agency, and that although there were specific user agencies assigned to the Requests for Information, the spaces are CMS’s to use. Ms. Florence said this was the only time during her tenure that the CMS Bureau of Property Management had swapped user agencies before the final award had been made.

Ms. Florence said the CMS Bureau of Property Management staff did not consult the Chief Procurement Office or the Procurement Policy Board for guidance before making the decision to swap the user agencies. She said that the State Purchasing Officer did not raise any concerns about the leases during the award process, and that he did not become involved until there was attention on the leases.

⁵⁸ According to Mr. Kraft, he was the one who first suggested the idea to Ms. Florence and Mr. Schierholz.

3. Mr. Schierholz's Interview

In his interview, Mr. Schierholz confirmed that he was the one who ultimately approved swapping DHS and BCCS/DoIT. Mr. Schierholz said that CMS's Bureau of Property Management has the latitude to assign user agencies to leases as the bureau desires, and that the decision to swap the user agencies seemed reasonable because the site originally selected for BCCS/DoIT looked better for DHS, and vice versa. Mr. Schierholz maintained that each Request for Information had similar amenities and that they were bid in "proximity" to each other, although he acknowledged that they had different amounts of square footage listed. He noted that both user agencies concurred with the decision.

Mr. Schierholz confirmed that as a result of the swap, the winner of the DHS lease did not bid on the Request for Information for that lease, and the winner of the BCCS/DoIT lease did not bid on the Request for Information for that lease. Mr. Schierholz said he does not know of any other situation where CMS awarded a lease to a vendor that did not bid for that lease.

4. Mr. Smith's Interview

Mr. Smith said Ms. Florence told him that CMS was going to change the user agencies, and that he understood that the solicitations were the same, and that the agencies were just swapped. Mr. Smith said that after the swap, he did not contact any other bidders to see if they could provide a better price, and that he did not know if he could have done so. Mr. Smith said he assumed that the final lease awards had been made before the swap occurred, and that he was not aware of any instance when agencies had been swapped before the final award had been made.

D. Third Lease (IDOT)

During the course of investigating the process used to award the lease of warehouse space for DHS and the lease of office and warehouse space for BCCS/DoIT, the OEIG discovered a third lease, which was impacted by CMS's decisions regarding those leases. This third lease ultimately was used for space for IDOT.

On August 26, 2015, at around the same time DHS began seeking new warehouse space to house its records, and BCCS/DoIT began seeking office and warehouse space to move its staff and equipment, CMS issued a Request for Information for a lease of 20,000 square feet of climate-controlled warehouse space in Sangamon County, under CMS Lease Number 6626. Mr. Smith and Mr. Schierholz confirmed in their interviews that this Request for Information was issued as a general solicitation, without specifying a user agency.

CMS received two proposals in response to this Request for Information, which were opened on September 24, 2015. The respondents were invited to submit a Best and Final Offer, but neither opted to do so. The proposals were:

Respondent	Space	Location	Total Rent⁵⁹
MGM Jefferson	20,000 sq. ft. (warehouse)	W. Jefferson Street, Springfield (Harbor Freight Property)	\$764,994
BJD Properties	20,000 sq. ft. (warehouse)	Eastdale Avenue, Springfield (Eastdale Property)	\$1,100,000

No award was made at that time.

Nearly ten months later, in a Space Request form purportedly signed by IDOT's Director on July 5, 2016, IDOT requested 19,442 square feet of space to relocate records and staff from its Hanley Building, including 15,000 square feet of storage space, and 4,442 square feet of personnel and office space for 28 staff. Although MGM Jefferson (Harbor Freight Property) had submitted the lowest-cost offer in response to the August 26, 2015 general Request for Information, the Space Request form specifically requested BJD Properties' Eastdale Property.⁶⁰ IDOT's Space Request noted that the Eastdale Property was located across the street from IDOT's Hanley Building. The approval form for the IDOT Space Request indicated that Mr. Schierholz approved it on July 7, 2016.

The next day, in the same July 8, 2016 email in which she proposed swapping the user agencies for the lease of warehouse space for DHS and the lease of office and warehouse space for BCCS/DoIT, Ms. Florence also made a recommendation regarding the IDOT Space Request. She explained that the lowest-cost offer received in response to CMS's general solicitation (i.e., for MGM Jefferson's Harbor Freight Property) had been selected pursuant to a different Request for Information (i.e., the BCCS/DoIT lease), and she recommended selecting the other offer (for BJD Properties' Eastdale Property) for IDOT to use for its central records center. In support of her recommendation, Ms. Florence noted that the property was across the street from IDOT's headquarters and opined that the cost was reasonable. Ms. Florence reminded Mr. Schierholz that he had approved this recommendation the previous day, and that it had already been forwarded to the Leasing Representative for further action.

E. Mr. Smith's Communication Of Pricing Information To MGM Jefferson (Harbor Freight Property)

As noted above, one of the complaints the OEIG received alleged that Mr. Smith shared pricing information between the bidders for the DHS and BCCS/DoIT leases before the winning respondents were selected for the final lease awards. Therefore, the OEIG reviewed Mr. Smith's emails in an effort to identify if such communications occurred.

Emails obtained in the investigation reflect that on September 14, 2016, after Mr. Schierholz approved the substitution of MGM Jefferson's Harbor Freight Property for BCCS/DoIT, but before the lease was executed, Mr. Smith wrote real estate agent [Agent] referencing an earlier phone call regarding the cost estimate for the Harbor Freight Property.⁶¹ In

⁵⁹ This is the total rent amount for the five-year lease.

⁶⁰ Mr. Smith told investigators that he did not know whether the Eastdale Property was built to suit IDOT's needs, but noted that the building was under construction when he started working at CMS in August 2015.

⁶¹ According to the emails, [Agent] had sent Mr. Smith the cost estimate.

that email, Mr. Smith wrote that “the \$18.30 Year 1 rate from the initial build-out proposal, is an annual rent rate not a cost to renovate.” When Ms. Florence emailed Mr. Smith to ask where the \$18.30 figure came from, Mr. Smith responded that it “was the Year 1 lease rate proposal for Barney’s property,”⁶² and subsequently explained that he (Mr. Smith) “had just mentioned that rate on the phone. . .” Ms. Florence stated: “Well that doesn’t really have any bearing on this deal. We’re not going to give them \$18.30 just because that’s what a different proposer offered for a totally different building.”

When asked in his interview about the allegation that he shared pricing information, Mr. Smith said, “I may have erred there,” and that in hindsight he would not have done this. Mr. Smith said that he thought his position was to tell the lessors that the agencies switched and that there were plans to change the way the leases were used. Mr. Smith said that by discussing the prices, he was trying to get the best deal for the State.

F. CMS Final Recommendations For The Three Leases

Final Recommendation Forms for the leases of space for IDOT, DHS, and BCCS/DoIT were dated August, September, and November 2016, respectively, contained the signatures of Leasing Representative Chip Smith, and indicated that they were approved by Bureau of Property Management Chief Financial Officer Tony Fuhrmann and Deputy Director Terry Schierholz.

The Final Recommendation Form for the lease of warehouse space for DHS explained that the offer had initially been submitted for 44,000 square feet of office and warehouse space for BCCS/DoIT, but that the user agency had been changed to DHS, to use the space for file storage.⁶³ The justification section stated that the location “is better suited for DHS’s warehouse needs than it was for the initial intended use” by BCCS/DoIT. The form also stated: “Exercise expansion space up front for a total of 55,000 sq. ft.”⁶⁴

The Final Recommendation Form for the lease of office and warehouse space for BCCS/DoIT explained that the offer had initially been submitted for 24,210 of warehouse space for DHS, but that the user agency had been changed to BCCS/DoIT, to use the space for relocation of staff and equipment storage.⁶⁵ The justification section stated that the location “is much better suited for DoIT’s needs than it was for the initial intended use by DHS,” and that, “[w]hile we would not normally negotiate upwards regarding base rent, the combined office-warehouse use and significant improvements required for DoIT’s operations warrant the increased rental rates, which are still very reasonable.”

⁶² In its response to the Request for Information for office and warehouse space for BCCS/DoIT, Climate Controlled Holdings had offered a base rental rate of \$18.30 per square foot for the first two years of the lease for the Barney’s Furniture Property.

⁶³ The Final Recommendation Form identified the CMS Lease Number for the Request for Information as 6627, which was the number that had been used for the Request for Information for the lease of office and warehouse space for BCCS/DoIT.

⁶⁴ A revised version of the recommendation form added: “or 100% occupancy (Lessor claims total bldg. is closer to 60,000 and we are awaiting architect’s measurements).”

⁶⁵ The Final Recommendation Form identified the CMS Lease Number for the Request for Information as 6628, which was the number that had been used for the Request for Information for the lease of warehouse space for DHS.

The Final Recommendation Form for the IDOT lease explained that the lowest-cost offer had been for property which was also offered, and selected, under another Request for Information, and that BJD Properties' offer was the only remaining offer. The form noted that IDOT would pay a lump sum of \$172,110 for requested improvements. The justification section stated that the proposed space was across the street from the IDOT administrative building.

G. CMS White Papers

Ms. Florence said in her interview that she drafts CMS's "White Papers," which are documents that provide CMS's justification for leases and are submitted to the Procurement Policy Board. In his interview, Mr. Schierholz said he would have made the final selection to award the lease of office and warehouse space for BCCS/DoIT, and that his selection of the lessor is documented in the White Paper. Mr. Schierholz said he also signed off on the recommendation for the lease of warehouse space for DHS. The OEIG obtained the White Papers for the three leases, which were in Mr. Schierholz's name; the OEIG also reviewed a draft White Paper for the lease of warehouse space for DHS.

1. CMS White Paper for the Warehouse Lease for DHS

In a September 30, 2016 White Paper, Mr. Schierholz described the proposed lease of 60,158 square feet of warehouse space at the Barney's Furniture Property from Climate Controlled Holdings for DHS.⁶⁶ Mr. Schierholz stated:

This [Request for Information] was initially published in October and December of 2015, for 44,000 square feet. No offers were received. A third solicitation was published in January of 2016. Two offers were received, both from the same proposer but for different locations. The lowest-cost offer was selected for negotiation.

Mr. Schierholz's memorandum did not mention that the Request for Information he described, and to which Climate Controlled Holdings responded, actually was a Request for Information for mostly office space for BCCS/DoIT. Nor did he mention that Climate Controlled Holdings had not responded to any Request for Information for primarily warehouse space.

An earlier September 27, 2016 draft of this White Paper did describe the original Requests for Information for CMS Lease Numbers 6627 and 6628 and explained that "[u]pon further review of the selected sites for these two RFIs [Requests for Information], it was determined that the location selected for DoIT would better suit DHS and vice-versa." This language was omitted from the September 30, 2016 version discussed above.

2. CMS White Paper for the Office and Warehouse Lease for BCCS/DoIT

⁶⁶ The White Paper used CMS Lease Number 6627, which was the number used for the Request for Information for the lease of office and warehouse space for BCCS/DoIT.

In a December 19, 2016 White Paper, Mr. Schierholz described the proposed lease of 24,210 square feet at the Harbor Freight Property from MGM Jefferson, for BCCS/DoIT's office space for 155 employees and warehouse space.⁶⁷ Mr. Schierholz stated:

This Solicitation was first published in November 2015. One offer was received, which was nonresponsive. The project was re-advertised in December 2015. A total of four offers were received and the lowest-cost offer was selected.

Mr. Schierholz's memorandum did not mention that the solicitation he described, and to which MGM Jefferson responded, actually was a Request for Information for largely warehouse space for DHS. Nor did he mention that MGM Jefferson had not responded to any Request for Information for primarily office space.

3. CMS White Paper for the IDOT Lease

In an August 26, 2016 White Paper, Mr. Schierholz described BJD Properties' property as 4,000 square feet of office space, and 16,000 square feet of warehouse space. The White Paper noted that the space was solicited as strictly warehouse space but stated that IDOT required "more extensive office-type space along with other amenities not included in the initial programming." The White Paper stated that the cost of additional work to create that office space was \$172,110, which IDOT would pay in a lump sum. The White Paper noted that two offers were received and the lowest cost proposal "was also offered, and was selected, under a different RFI."

H. Award Notices

Notices of Lease Award were published on August 31, 2016 for the IDOT lease; October 4, 2016 for the lease of warehouse space for DHS;⁶⁸ and on December 22, 2016 for the lease of office and warehouse space for BCCS/DoIT.⁶⁹

I. Execution Of The Leases

The lease documents reflect that CMS and BJD Properties entered into the IDOT lease on August 24, 2016. Under that lease, BJD Properties provided 4,000 square feet of office space and 16,000 square feet of warehouse space at the Eastdale Property. The total rental amount was \$1,100,000 over the five-year lease period. Under the lease, CMS also agreed to pay a lump sum of up to \$172,110 for improvements. In an August 29, 2016 memorandum, CMS Leasing Transactions employee Brad Hermes opined that the project budget of \$172,110 was fair and reasonable.

⁶⁷ The White Paper used CMS Lease Number 6628, which was the number used for the Request for Information for the lease of warehouse space for DHS.

⁶⁸ This Award Notice used CMS Lease Number 6627, which was the number used for the Request for Information for the lease of office and warehouse space for BCCS/DoIT.

⁶⁹ This Award Notice used CMS Lease Number 6628, which was the number used for the Request for Information for the lease of warehouse space for DHS.

The lease documents reflect that CMS and Climate Controlled Holdings entered into a lease on September 19, 2016. Under that lease, Climate Controlled Holdings provided 60,158 square feet of warehouse space for DHS at the Barney’s Furniture Property, which was 100% of the total rentable area for the building.⁷⁰ The total rental amount was \$2,429,782 for the five-year lease period. Climate Controlled Holdings agreed to perform various improvements at its own expense, as a condition of rent.

The lease documents reflect that CMS and MGM Jefferson entered into a lease on December 12, 2016. Under that lease, MGM Jefferson provided 24,210 square feet of office and warehouse space for BCCS/DoIT at the Harbor Freight Property.⁷¹ The total rental amount was \$2,041,498. The lease provided that MGM Jefferson would pay for improvements costing \$702,570, as a condition of rent.⁷² In a November 14, 2016 memorandum, Mr. Hermes opined that the project budget of \$702,570 was fair and reasonable.

J. Interviews With CMS Staff Regarding The Changed Criteria In The Leases

The CMS personnel interviewed in the investigation characterized the changes to the DHS and BCCS/DoIT leases as merely swapping the user agencies. However, as shown on the charts below, the investigation revealed that those leases, as ultimately awarded, reflected significant additional changes from the original Requests for Information and offers made in response to those requests, including in the amounts and types of space awarded, and the rent amounts:

Lease of Warehouse Space for DHS
Awarded to Climate Controlled Holdings (Barney’s Furniture Property)

	Total Amount of Space (sq. ft.)	Type of Space	Total Rent
Request for Information (requested for DHS)	26,000	Warehouse (plus work space for 4 staff)	
Climate Controlled Holding’s Offer (submitted in response to Request for Information for space for BCCS/DoIT)	44,000	Office and warehouse	\$4,131,600
Climate Controlled Holdings’ Lease (for DHS)	60,158	Warehouse	\$2,429,782

⁷⁰ The lease used CMS Lease Number 6627, which was the number that had been used for the Request for Information for the lease of office and warehouse space for BCCS/DoIT.

⁷¹ The lease used CMS Lease Number 6628, which was the number that had been used for the Request for Information for the lease of warehouse space for DHS.

⁷² According to documents obtained from the Executive Inspector General for the Office of the Comptroller, MGM Jefferson’s owner advised that office that he sold the Harbor Freight Property in March 2018, after he had spent money on it and the State delayed making payments to him.

Lease of Office and Warehouse Space for BCCS/DoIT
Awarded to MGM Jefferson (Harbor Freight Property)

	Total Amount of Space (sq. ft.)	Type of Space	Total Rent
Request for Information (requested for BCCS/DoIT)	44,000	Office (work space for 155 staff) and warehouse space	
MGM Jefferson's Offer (submitted in response to Request for Information for space for DHS)	24,210	Warehouse	\$926,025
MGM Jefferson's Lease (for BCCS/DoIT)	24,210	Office and warehouse	\$2,041,498

In light of these significant changes, investigators asked the CMS personnel why they did not issue new Requests for Information with the changed criteria.

1. Interview of Ms. Florence

When asked why CMS did not rebid the leases, given that DHS's space needs had increased from the 26,000 square feet originally requested for DHS to the approximately 60,000 square feet ultimately awarded for DHS, Ms. Florence said that the lease had previously been solicited, and that this Request for Information had resulted in an awarded property. When asked whether the swap effectively prevented potential vendors from bidding, Ms. Florence said she did not know, but that both leases were solicited multiple times without bids. She added that she would argue that MGM Jefferson (Harbor Freight Property) and Climate Controlled Holdings (Barney's Furniture Property) each got the leases they bid on, and then were swapped to better, more suitable users.

Ms. Florence said that after DHS's needs changed, she did not review the three other offers CMS received in response to the Request for Information for warehouse space for DHS, and that she does not know if Mr. Smith did so.

2. Interview of Mr. Smith

Mr. Smith said that after the swap in the DHS and BCCS/DoIT leases, he did not contact any other bidders to see if they could provide a better price.⁷³ Mr. Smith explained that the agencies were just swapped.

Mr. Smith said that although he performed a site suitability check on the Harbor Freight Property when MGM Jefferson offered it in response to the Request for Information for warehouse space for DHS, he did not do another site suitability check at the property when CMS decided to use the property for BCCS/DoIT. When asked how he could know that the property was suitable

⁷³ Mr. Smith also told investigators that he did not send rejection letters to the other responsive bidders who submitted responses to the Request for Information for warehouse space for DHS.

for BCCS/DoIT without checking, Mr. Smith acknowledged that someone should have done a check, but that it did not happen.

Mr. Smith said that user agencies pay for build-outs if their requirements change from what is stated in the Request for Information, and that the cost of the build-out may be included in the lease through additional rent. For example, Mr. Smith said, CMS would have paid for the build-out changes for MGM Jefferson's Harbor Freight Property after the user agencies changed.

Mr. Smith said he did not think CMS notified MGM Jefferson (Harbor Freight Property) (the lowest-cost bidder on the general Request for Information for the lease that ultimately was used for IDOT), that the requirements had changed to include office space. Mr. Smith said that to his knowledge, MGM Jefferson was never given the opportunity to offer another bid for the IDOT lease and acknowledged that CMS could not have known that MGM Jefferson would not have offered a better bid than BJD Properties for that lease.

3. Interview of Mr. Kraft

Mr. Kraft was asked how BCCS/DoIT was able to use the space at MGM Jefferson's Harbor Freight Property, given that it was smaller than what had been requested for BCCS/DoIT.⁷⁴ Mr. Kraft said that after BCCS/DoIT was shown the Harbor Freight Property, it cut its space requirement by removing certain phone and wiring storage. Mr. Kraft said that BCCS/DoIT currently stores its phones and wiring in an old Illinois State Police Armory building in Springfield, which has issues with mold and leaks.

When asked whether the swap, which ultimately changed the solicitation criteria, meant that other potentially lower bidders lost out on the leases, or that other companies were not allowed a chance to bid, Mr. Kraft acknowledged that "[t]here's always that possibility, yes," but added that "if it works for us, I'm okay with it."

4. Interview of Mr. Schierholz

Mr. Schierholz said that after the swap in the DHS and BCCS/DoIT leases, those selected properties and the property selected for IDOT all required construction.

Investigators asked Mr. Schierholz if, after the criteria changed, the bidders that responded to the Requests for Information, but were not initially selected, were considered again. Mr. Schierholz responded that he did not know if the other bidders were ever considered after the initial selections.

Mr. Schierholz said he did not know why there was a significant increase in the amount of space DHS required by the time the lease was finalized. When asked if a new Request for Information should have been published given that DHS's needed space more than doubled, Mr.

⁷⁴ As noted above, the Request for Information for office and warehouse space for BCCS/DoIT sought 44,000 square feet of space, but the lease of MGM Jefferson's Harbor Freight Property for BCCS/DoIT was ultimately for 24,210 square feet.

Schierholz responded that leases contain expansion options for situations like this.⁷⁵ Mr. Schierholz said that CMS would not know that it got the best price for a lease if the square footage of the lease was increased to use the selected bidder's entire building, and CMS did not check prices for the new amount of space with other bidders.

Mr. Schierholz said he did not think CMS asked the other bidder on the lease ultimately awarded for IDOT if it could provide 4,000 square feet of office space and 16,000 square feet of warehouse space at a better price. When asked why CMS would not put that lease out for bid again, requesting office space, rather than paying BJD Properties \$172,000 in construction costs, Mr. Schierholz said that it was not unusual for an agency to figure out during the leasing process that it needed more office space than previously thought, and that \$172,000 is not unusual.

Mr. Schierholz said he believed the swap was efficient, although he agreed that there was no competition for the DHS and BCCS/DoIT leases after the swap, and that all three leases were awarded without competition. Mr. Schierholz confirmed that, as a result of the swap, the winner of the DHS lease had not bid on the Request for Information for DHS, and the winner of the BCCS/DoIT lease had not bid on the Request for Information for BCCS/DoIT.

Mr. Schierholz said that CMS could have put each lease out to bid again with the actual criteria the user agencies wanted, rather than doing the swap, and that it would not have taken much time to redo the Request for Information process for each lease, "not months on end." Mr. Schierholz said he did not know if the outcome would have been different if the leases had been rebid, or if new Requests for Information would have added different respondents into consideration, or additional, more suitable sites. Mr. Schierholz acknowledged that it was very possible that other bidders could have made better offers if CMS had advertised the Requests for Information with the changes to the criteria.

K. Interviews With CMS Staff Regarding Contacts With William Cellini

In his interview, Mr. Smith said William Cellini had been involved with the Sangamon County Republican Party with his (Mr. Smith's) father, who used to be the County Chair. Mr. Smith said that as far as he knows, Mr. Cellini was not involved with the Climate Controlled Holdings lease for the Barney's Furniture Property, other than that he was the father-in-law of one of the company's partners. Mr. Smith said that during the construction work done at the Barney's Furniture Property, he noticed that Mr. Cellini was copied on emails relating to the Climate Controlled Holdings lease (for the DHS warehouse). He said he wondered why, but that he did not talk to anyone about it. When asked why Mr. Cellini would show up on emails for the Climate Controlled Holdings lease, Mr. Smith said Mr. Cellini was not a partner on the lease.

Ms. Florence said she has met William Cellini once or twice at social functions, and that she knows Mr. Cellini's sister, [Sister], because she ([Sister]) has been in State government a long time. However, she said she did not have any contact with Mr. Cellini regarding the DHS and

⁷⁵ No lease agreement between CMS and Climate Controlled Holdings had been executed as of the time of the swap, however. As noted above, the Request for Information packets discussed an expansion option that provided that the State could take on up to 100% of the remaining rentable square footage of the building proposed, "following the lease date."

BCCS/DoIT leases. When shown the October 27, 2016 email regarding “Barney’s – Contract” that was forwarded to her, Ms. Florence said she had not noticed that Mr. Cellini was copied on the email and that she did not know why he was. Ms. Florence said she is aware that Mr. Cellini is a convicted felon, and said that if she had noticed he was copied on the email she would have asked Mr. Smith to ask the respondent about it.

Mr. Schierholz said he knew William Cellini socially and that they both sat on the local Historical Site Commission. Mr. Schierholz said he did not have any contact with Mr. Cellini other than occasionally seeing him at events, and that he did not know anyone else he worked with to have had contact with Mr. Cellini.

L. Role Of The Chief Procurement Office In Approving The Leases

Given the irregularities discovered in the process CMS used to award the leases examined in this investigation, the OEIG examined the role of the State Purchasing Officer and other staff in the Chief Procurement Office in overseeing these procurements.

1. Interviews of Former Senior State Purchasing Officer Arthur Moore

Investigators interviewed Arthur Moore on January 11 and August 27, 2018. Mr. Moore said he was a Senior State Purchasing Officer for General Services for approximately 16 months, until June 2017.⁷⁶ Mr. Moore said that when he was a Senior State Purchasing Officer, he reported to Deputy Chief Procurement Officer Jan Morrow.

Mr. Moore described the State Purchasing Officer’s general role relating to lease procurements. He said that the State Purchasing Officer reviews the Request for Information to ensure the requirements are clear, not overly restrictive, and comply with the Procurement Code; and that all vendors have an equal opportunity to submit a proposal. He said that after an initial selection is made, the State Purchasing Officer reviews CMS’s White Paper, which provides a snapshot of the selection, including the selected respondent and cost; and CMS’s workbook, which provides a financial analysis of the costs of the lease and identifies the Best and Final Offers. Mr. Moore said the initial selection is reviewed to ensure that the lowest-cost respondent was selected, or that there is a rationale for skipping over the lowest-cost offer. He said the State Purchasing Officer publishes notice of the selection, and then the CMS Leasing Representative negotiates the final layout and costs with the selected respondent. Mr. Moore said CMS then submits an updated White Paper to him that reflects any changes. Mr. Moore said the State Purchasing Officer reviews the final award and lease to ensure that the user agency’s space requirements are met, the space is in alignment with the intended use, and that the State is not being overcharged for any additional space being leased. The State Purchasing Officer then publishes the final award.

Mr. Moore said that as a State Purchasing Officer, he generally could make decisions without the Chief Procurement Officer’s approval.⁷⁷ Mr. Moore said that a State Purchasing Officer typically would involve the Deputy Chief Procurement Officer or the Chief Procurement

⁷⁶ Mr. Moore said that at that time he became the Chief Procurement Officer for the Capital Development Board.

⁷⁷ Mr. Moore noted that procurements that involve a specific exemption or waiver do require the Chief Procurement Officer’s approval, for example.

Officer if there was confusion in the process, if there were any concerns about the procurement, or he or she needed guidance, among other circumstances. In addition, Mr. Moore said that if he believed a lease procurement did not follow the spirit of the Procurement Code or was not in the best interest of the State, he would elevate the issue to the Chief Procurement Officer for her direction.

Mr. Moore said that he was assigned to oversee lease procurements in April 2016. He said that under the system in place at that time, he did not have access to documentation relating to the procurements, other than what CMS provided to him, and that he sometimes had to ask CMS to provide basic documents such as the workbook. Mr. Moore said that CMS “didn’t readily provide information” to him regarding changes in lease costs, and added that he was not privy to email communications regarding lease procurements.

Mr. Moore said that his first involvement with the lease of warehouse space for DHS and the lease of office and warehouse space for BCCS/DoIT⁷⁸ was to review the initial selections, and that he had no involvement with the leases at the time the Requests for Information were published. Mr. Moore said that at the initial selection stage for the lease of warehouse space for DHS, he reviewed CMS’s White Paper and workbook. In addition, he said he reviewed the “mandatory requirements of the solicitation,” which were contained in the Request for Information, including the requested location, square footage, intended use of the space, and additional requirements, such as parking. Mr. Moore said CMS did not provide him with the respondents’ proposals, and that he did not ask to see them. Mr. Moore said he published the initial selection notice in April 2016 and did not see any additional information about the lease until September 2016.

Mr. Moore said his level of review of the lease for office and warehouse space for BCCS/DoIT at the initial selection stage was similar to his review process for the other lease, and that he did not see the full responses to the Request for Information. Mr. Moore said he recalled seeing the Agency Programmed Requirements attached to the Request for Information, but that they were not the focus of his review because agency needs change. Mr. Moore said he also published the initial selection notice for the lease of office and warehouse space for BCCS/DoIT in April 2016.

Mr. Moore said his involvement with the IDOT lease began in approximately July 2016, when he reviewed the Request for Information, initial selection, White Paper, workbook, and final award. Mr. Moore recalled that he asked CMS employee Kathleen Britton why the lease was not being awarded to the lowest-cost respondent, MGM Jefferson (Harbor Freight Property), and that he was told that the MGM Jefferson space was no longer available. He said that CMS evaluated the cost to the State for modifications, and that the cost analysis did not come to him as State Purchasing Officer. Mr. Moore said he made the final decision to publish the award of the IDOT lease to BJD Properties, and that the only thing that seemed odd about that procurement was how quickly it was done.

⁷⁸ Mr. Moore said in his interviews that he reviewed the lease procurements by the solicitation numbers used in the Illinois Procurement Bulletin, rather than by reference to the user agency or CMS Lease Number. For the sake of consistency and to avoid confusion, this report will continue to refer to them as the lease of warehouse space for DHS and the lease of office and warehouse space for BCCS/DoIT in discussing Mr. Moore’s interview.

Mr. Moore said that in September 2016, he received an updated White Paper for the DHS lease. He said that based on the White Paper, he understood that the intended use for the lease was for 44,000 square feet of climate-controlled office and warehouse space in a specific geographic area, and that that was what Climate Controlled Holdings (Barney's Furniture Property) responded to and was ultimately awarded. Mr. Moore explained that he reviewed the procurement based on the solicitation number used in the Illinois Procurement Bulletin, and that Climate Controlled Holdings had submitted a proposal under that number; he said that based on what he reviewed at the time, it appeared that the respondents were the same all the way through the process.⁷⁹

When asked why the amount of desired space for DHS increased between September 2015 and the end of the process, Mr. Moore said it was because of the agency's needs, and that CMS exercised an expansion option in the lease to allow DHS to occupy the entire building. He said that the original Request for Information also provided that option and opined that exercising it prior to the execution of the lease is allowable and transparent.⁸⁰

Mr. Moore said that in December 2016, he reviewed documentation for the final award of the lease of office and warehouse space for BCCS/DoIT. He said that based on his review, he understood that the intended use for that lease was for 26,000 square feet of climate-controlled office and warehouse space, and that that was what MGM Jefferson (Harbor Freight Property) had responded to and was ultimately awarded. Mr. Moore said that when he reviewed the updated White Paper for the lease, he noticed a change in price and requested the workbook to see what had changed. He said that it was only at that time that he became aware that CMS had swapped the user agencies.

Mr. Moore said that when he noticed that the user agencies had changed, he asked Ms. Florence about it. According to Mr. Moore, Ms. Florence pointed to a term in the lease agreement that she believed allowed CMS to substitute user agencies.⁸¹ Mr. Moore said they did not have a detailed discussion about why the user agencies had changed. Mr. Moore noted that the final awards for the DHS and BCCS/DoIT leases were published at different times, and that he did not compare them. Accordingly, he said, he never viewed Climate Controlled Holdings (Barney's Furniture Property) as paired with a different Request for Information until after the leases had been executed and questions were asked of him.

Mr. Moore said he was not aware of anyone at CMS, BCCS/DoIT, or DHS expressing a preference for a specific respondent to obtain these leases. Mr. Moore said he has heard of William Cellini, but that he was not aware of Mr. Cellini being involved in these leases.

⁷⁹ Investigators confirmed that Illinois Procurement Bulletin number 22037791 was used for the Request for Information and initial selection notice of Climate Controlled Holdings (Barney's Furniture Property) for the lease of office and warehouse space for BCCS/DoIT, as well as for the final award to Climate Controlled Holdings for the lease of warehouse space for DHS.

⁸⁰ As noted above, no lease agreement between CMS and Climate Controlled Holdings had been executed at that time, and the expansion option referenced in the Agency Programmed Requirements in the Request for Information packet stated that the option could be exercised "following the lease date."

⁸¹ The lease agreements for the DHS and BCCS/DoIT leases, which had not been executed as of the time of the swap, stated: "Lessee may substitute using agencies in the Premises upon thirty (30) days' written notice to the Lessor."

Mr. Moore said that during the time he was reviewing the procurement of the lease of office and warehouse space for BCCS/DoIT, he was not aware that Mr. Smith may have shared Climate Controlled Holdings' pricing information for that lease with MGM Jefferson, and that he learned that information from an Illinois Auditor General report that was issued after the lease was executed.⁸² He said that if Mr. Smith did communicate pricing information it would have warranted automatic cancellation of the solicitation, even though the decision had been made to award the lease to MGM Jefferson for the Harbor Freight Property at that point. He explained that if the parties could not reach an agreement on the lease, the agency had the ability to pursue a lease with another respondent; he added that revealing pricing information is a transparency issue.

Mr. Moore said that the purpose of his review of the procurements of the leases for DHS and BCCS/DoIT was to ensure that the minimum requirements were met, and that was his focus. He said that he did not believe that the changes to the final awards were substantive enough to warrant cancelling the solicitations and publishing new Requests for Information. He added that during the extended time between the initial selections and final awards, space and layout requirements can change and can be negotiated. Although Mr. Moore maintained that there was nothing unique procedurally about the process used for these leases, he acknowledged that he had never previously approved procurements such as these, where user agencies were switched.

When asked what changes would have been material enough to cause him to cancel a solicitation and publish a new Request for Information with new criteria, Mr. Moore said that if the selected respondent offered property outside the predetermined geographical area, or if the square footage changed to a point that the use was not comparing "apples to apples," that would give him pause. He added that costs also may cause him to question a procurement. However, Mr. Moore said it would not give him pause if the agency exercised an expansion option, or if he learned that the intended use for the property changed from a combination of office and warehouse space to just warehouse space. Mr. Moore acknowledged that the leasing procurement process relied on information determined by CMS, especially the cost to improve or build out properties.

Mr. Moore said he made the final decisions to award the warehouse lease for DHS and the office and warehouse lease for BCCS/DoIT, and that he did not seek or receive any guidance or input from Deputy Chief Procurement Officer Jan Morrow or Chief Procurement Officer Ellen Daley regarding the awards. He explained that he did not elevate any issues with the leases to them because he did not see anything during his review of the leases that would necessitate doing so.

2. Interview of Deputy Chief Procurement Officer Jan Morrow

On October 25, 2018, investigators interviewed Deputy Chief Procurement Officer Jan Morrow. Ms. Morrow said she has been in that position since July 2015, and that she reports to Chief Procurement Officer Ellen Daley.

⁸² In May 2018, the Office of the Auditor General issued a report of a performance audit of the State's decision to enter into a lease for Climate Controlled Holdings' Barney's Furniture Property. The audit examined many of the same issues the OEIG examined in this investigation, and the OEIG agrees with the facts outlined in the audit report.

Ms. Morrow said she became involved with the DHS and BCCS/DoIT leases in the spring of 2017, after news reports about them came out, and that she subsequently reviewed the IDOT lease. She said that at that time, she reviewed the entire leasing files for the DHS and BCCS/DoIT leases, but that she did not get into the same level of detail with the IDOT lease.

Ms. Morrow said that during the procurement process for the DHS and BCCS/DoIT leases, CMS decided to change the user agencies, and that it was able to do so based on the needs of the agencies. Ms. Morrow said that the user agencies were swapped, not the respondents to the Requests for Information. She said that the leasing agency was CMS throughout the process, and that the user agencies were arrived at through negotiation. Ms. Morrow said she did not recall CMS ever substituting user agencies during her tenure, other than on this occasion.

Investigators asked Ms. Morrow whether, from a procurement perspective, it was a problem that the spaces awarded in the DHS and BCCS/DoIT leases were different from the spaces requested in the Requests for Information. She responded that the minimum criteria in the Requests for Information were still met by the spaces that were awarded, and that is what the Chief Procurement Office examines. Ms. Morrow explained that the Request for Information provides a general description of what CMS is looking for, and that the “Agency Programmed Requirements” in the Request for Information are more of a “wish list” than a set of requirements.

When asked specifically about the significance of the change in the amount of space DHS needed, Ms. Morrow said that language allowing for an expansion option was in the Request for Information and the final lease, although she acknowledged that a lease had not been executed at the time of the swap. Investigators showed her the provision in the Agency Programmed Requirements in the Request for Information that indicated that the option could be exercised “following the lease date.” Ms. Morrow initially said she thought the option also appeared elsewhere in the Request for Information, but following her interview, Ms. Morrow advised the OEIG that she had reviewed the Request for Information and confirmed that the expansion option was not mentioned. However, she said that “[e]xercising the option and executing the lease simultaneously would not negatively affect competition as the option was made public in the APR [Agency Programmed Requirements] and lease.”

Ms. Morrow was also asked about the IDOT lease, which was awarded for office and warehouse space at an additional cost of \$172,000, after the Request for Information sought warehouse space. Ms. Morrow noted that warehouse space can be reconfigured, but said that if she were the State Purchasing Officer she would have questioned the extra cost and determined her course of action based on the answer. However, she said there frequently are build-outs in leasing, the need for which is not always known until negotiations begin. Ms. Morrow said that the Chief Procurement Office does not get involved in agency business decisions.

Ms. Morrow said that before the implementation of a new electronic procurement system, BidBuy, in the spring of 2018, procurement files were maintained at the agency. She said that Chief Procurement Office staff typically had to request procurement documentation from the agency when they wanted to review something, and that Mr. Moore had told her that he had trouble getting documents from CMS. Ms. Morrow said that she anticipates that Chief Procurement Office staff will have more access to procurement files with the implementation of BidBuy.

When asked whether it is in the best interest of the State for the Chief Procurement Office to focus on the minimum criteria detailed in the Requests for Information when reviewing procurements, Ms. Morrow said that the State Purchasing Officer should be looking at the procurement file in its totality, and that ultimately the lease should be in the best interest of the State. She said that there could be circumstances in which the minimum criteria were satisfied, but that the lease would not be in the best interest of the State. Ms. Morrow said that if a State Purchasing Officer encountered such circumstances, they should elevate the issue to her attention.

Ms. Morrow confirmed that Mr. Moore did not bring the DHS, BCCS/DoIT, or IDOT leases to her attention during the procurement process. She said that State Purchasing Officers generally can make decisions without the Chief Procurement Officer's approval, and that they have discretion as to whether to bring an issue to her or the Chief Procurement Officer's attention. She said that based on what she now knows about the leases, she did not think Mr. Moore should have brought them to her attention during the procurement process. Ms. Morrow said she believed the procurements were done properly.

3. Interviews of Chief Procurement Officer Ellen Daley

Investigators interviewed Chief Procurement Officer Ellen Daley on April 18 and September 18, 2018. She said that she has been in that position since July 2015.

Ms. Daley said she became involved with the DHS and BCCS/DoIT leases after they were executed, when news reports about them came out in early 2017. She said that she met with various people about how the leases were awarded, and that Mr. Moore and Ms. Florence walked her through the process. She said she "most likely" also reviewed documents regarding the lease awards. Ms. Daley said she recalled reviewing and discussing the award of the IDOT lease during the Illinois Auditor General's audit regarding the leases.

Ms. Daley said she did not believe there was a "swap" regarding the DHS and BCCS/DoIT leases, and said the responses were tied to the same solicitation numbers in the Illinois Procurement Bulletin.⁸³ She explained that the company that responded to a Request for Information seeking 44,000 square feet was awarded a 44,000-square-foot space under the same solicitation number in the Illinois Procurement Bulletin, and that the company that responded to a Request for Information for 26,000 square feet of climate-controlled warehouse space was awarded a lease for that space. Ms. Daley said that agencies can configure climate-controlled space however they want.

Ms. Daley said that what matters to her is whether the Request for Information contains the five requirements listed in the Procurement Code: the type of property to be leased, the

⁸³ As noted above, Illinois Procurement Bulletin number 22037791 was used for the Request for Information and initial selection notice for the lease of office and warehouse space for BCCS/DoIT, as well as for the final award for the lease of warehouse space for DHS. Records obtained in the investigation reflect that Illinois Procurement Bulletin number 22037508 was used for the Request for Information and initial selection notice for the lease of warehouse space for DHS, and number 22039951 was used for the final award for the lease of office and warehouse space for BCCS/DoIT.

proposed uses of the property, the lease duration, the preferred location of the property, and a general description of the configuration. Ms. Daley said those requirements appeared on the first page of the Requests for Information for the leases. She said that the attachments to the Requests for Information were simply an agency “wish list,” which do not concern her from a procurement perspective.⁸⁴ She said that if an initial response meets the minimum criteria, it is a valid procurement.

When asked if it concerned her that the lease for warehouse space for DHS was for more than double the amount of space requested in the Request for Information, Ms. Daley said that leasing is a long process, during which an agency’s needs may change. She said those changed needs can be addressed through the negotiation process. Ms. Daley said that the Procurement Code may not specifically spell out an expansion option, but as a matter of practice she interprets negotiation to include discussing expansion. Ms. Daley said that Chief Procurement Office staff do not review CMS’s choice to use the expansion option.

When asked if a State Purchasing Officer ensures that a lease is in the best interest of the State only by reviewing whether the responses to the Request for Information meet the minimum criteria and checking that the lowest-cost respondent was awarded the lease, Ms. Daley said, “that’s what the Code says.” Ms. Daley said that using the minimum criteria to review procurements, as detailed in the Procurement Code, and negotiation with all qualified respondents, is how the Chief Procurement Office ensures that procurements are executed in the best interest of the State. Ms. Daley said that, based on her review of the lease awards, she did not believe Mr. Moore should have brought them to Ms. Morrow’s or her attention during the procurement process. She said that State Purchasing Officers are her designees in the procurement process and can make decisions and determinations without her approval, except for a few types of decisions for which her approval is statutorily required. Ms. Daley reiterated her belief that because the respondents in these procurements were awarded leases according to solicitation numbers they responded to and because their initial responses to the solicitations met the minimum criteria set forth in the Procurement Code, she believed the procurements of the DHS and BCCS/DoIT leases were valid procurements.

When asked about changes that have been implemented in the procurement process, Ms. Daley said that a new electronic procurement system, BidBuy, was implemented in May 2018, which centralizes the procurement file and contains all the procurement documents and approvals. In addition, Ms. Daley said she issued a Chief Procurement Office Notice in June 2018 regarding lease procurements. The OEIG reviewed the Notice, which requires CMS Bureau of Property Management staff to document their outreach efforts and communications with qualified respondents in the procurement file, and include the State Purchasing Officer in written communications with qualified respondents. In addition, the Notice requires State Purchasing Officers to “be involved with the review of responses and discussions with respondents, if necessary to clarify the State’s needs or to determine the respondents that meet the minimum

⁸⁴ The “wish list” Ms. Daley referred to in the attachments to the Requests for Information appears to be the “Agency Programmed Requirements.”

criteria set forth in the [Request for Information],” and make a written determination identifying responses that meet the minimum criteria in the Request for Information.⁸⁵

M. Role Of The Procurement Policy Board

The Procurement Code provides that, upon a three-fifths vote, the Procurement Policy Board may review a proposal, bid, or contract and issue a recommendation to void a contract or reject a proposal or bid based on any violation of the Procurement Code, or the existence of a conflict of interest.⁸⁶ For the types of leases examined in this investigation, the Procurement Policy Board has 30 days to conduct its review.⁸⁷ CMS is required to “make any and all materials available to the [Procurement Policy] Board to assist in the review process.”⁸⁸

In her OEIG interview, Ms. Florence said the White Paper is sent to the Procurement Policy Board, along with the lease file. As noted above, CMS’s White Papers for the DHS and BCCS/DoIT leases did not mention that the Requests for Information they described, and to which the selected respondents responded, actually were Requests for Information for different types of space for different user agencies.

The OEIG reviewed minutes of Procurement Policy Board meetings to determine whether the Board reviewed the leases examined in this investigation. The minutes reflect that the Procurement Policy Board initially objected to the lease of the MGM Jefferson’s Harbor Freight Property for BCCS/DoIT at a January 19, 2017 meeting, pending receiving additional information regarding the lessor’s responsibility for paying to bring the building into compliance with the Americans with Disabilities Act, and then certified at the February 24, 2017 meeting that it no longer objected. The minutes did not reflect any Procurement Policy Board review of the DHS or IDOT leases.⁸⁹

In its May 2018 audit report, the Illinois Auditor General’s Office stated that it had interviewed the five members of the Procurement Policy Board about the lease of warehouse space for DHS. According to the report, none of the Board members were aware at the time that the lease procurement was originally published for a different agency. The report stated that one

⁸⁵ As noted above, the Procurement Code requires the State Purchasing Officer to make a written determination identifying the responses that meet the minimum criteria set forth in the Request for Information. *See* 30 ILCS 500/40-20(d) (2015). In his OEIG interview, Mr. Moore acknowledged that he did not complete written determination forms for the DHS, BCCS/DoIT, and IDOT leases, but said he considered his publication of the awards in the Illinois Procurement Bulletin as documentation of his approval. Although Ms. Daley similarly said in her interview that she believed the State Purchasing Officer’s publication of the award served as the written determination, she also said that since her issuance of the Notice, no further procurement activity can occur until the State Purchasing Officer’s written determination has been included in the procurement file.

⁸⁶ 30 ILCS 500/5-5(h) (2015).

⁸⁷ 30 ILCS 500/40-20(e) (2015).

⁸⁸ *See* 30 ILCS 500/40-20(e) (2015); *see also* 44 Ill. Admin. Code 1.4020(i) (2014).

⁸⁹ The minutes of the March 16, 2017 Procurement Policy Board meeting did reflect a discussion of the DHS lease following the publication of letters to the editor of the *State Journal-Register*. The minutes note that one member stated that the lease “is already in effect, and there’s not a darn thing we can do about it.”

member said it would have changed his decision if he had known, and two said the information would have generated more discussion and raised questions.⁹⁰

IV. ANALYSIS

The Illinois Procurement Code reflects the importance of competition and transparency in awarding State business. In State leasing, this means taking steps such as soliciting proposals by publishing a Request for Information that includes information about the type of property sought to be leased and its proposed uses, publicly opening the responses, and assessing whether they are responsive to the Request for Information prior to selecting a respondent and entering negotiations.⁹¹ Although the Procurement Code outlines the required procurement process for leasing, it cannot anticipate and provide direction for every scenario that may arise in the leasing process. Therefore, in evaluating lease procurements it is important to keep in mind the ultimate goal, which is to “secur[e] a lease that is in the best interest of the State.”⁹²

Although Requests for Information were issued and responses were received for the leases examined in this investigation, CMS’s selection of lessors contravened the Procurement Code’s intent and purpose. After proposals were solicited, received, publicly opened, and assessed for responsiveness for the lease of warehouse space for DHS and the lease of office and warehouse space for BCCS/DoIT, CMS significantly changed the space requirements in size and nature, did not offer others an opportunity to submit proposals based on the new requirements, and chose lessors that had not submitted a proposal in response to each original Request for Information. The swap that was made by CMS in this case caused these leases to be procured without transparency and without competition.

CMS’s decision to make a swap was precipitated by DHS’s and CMS’s inaccurate calculation of the amount of space DHS needed. Although State agencies are responsible for determining their need for a proposed procurement,⁹³ DHS did not make any effort to determine how much space it was using at Dwight Correctional Center before it submitted its Space Request to CMS. According to DHS’s Office of Business Services Assistant Director, he merely accepted the 25,000-square-foot figure that CMS’s Statewide Facility Manager gave him, without taking any steps to confirm it was accurate. Had DHS staff reviewed the 2014 Interagency Agreement with CMS, which allowed DHS to use approximately 71,871 square feet of space at Dwight, they could have been alerted that there might be a problem with the 25,000-square-foot estimate. It appears that DHS took no steps to calculate how much space it actually needed and thus, the Space Request submitted to CMS significantly underestimated DHS’s space needs.

In addition, it appears that CMS staff did not independently evaluate DHS’s Space Request before the Request for Information issued, nor did it complete a Property Management Business Case form before a Request for Information was issued, both of which could have made CMS aware of DHS’s actual need. DHS’s and CMS’s lack of identifying an accurate space need from

⁹⁰ According to the audit report, another member said the lack of information made it difficult to approve or object to items presented, and the final member said he was not sure whether the information would have made a difference.

⁹¹ 30 ILCS 500/40-15(a) & 20(a)-(d) (2015); 44 Ill. Admin. Code §§ 1.4015(a) (2012) & 1.4020(a), (d) & (e) (2014).

⁹² 30 ILCS 500/40-20(d) (2015); 44 Ill. Admin. Code § 1.4020(f)(1) (2014).

⁹³ 44 Ill. Admin. Code § 1.1005(g) (2014).

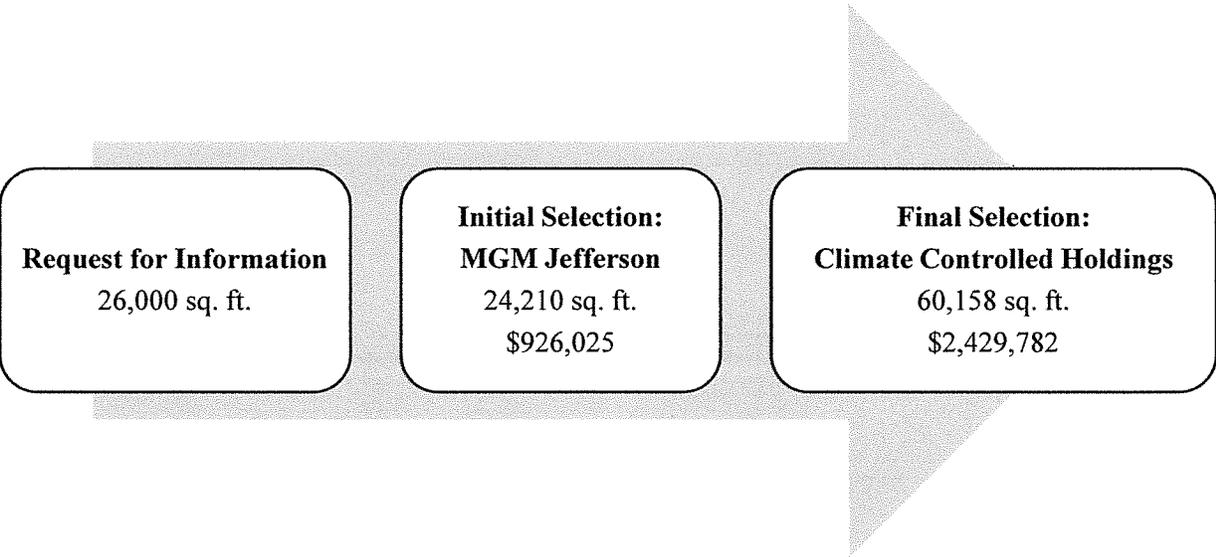
the start of the procurement process set in motion the events that led to CMS’s attempt to fix the problem through the swap.

While the Procurement Code allows room for flexibility in leasing procurements in order to negotiate changes in layout after proposals are received and an initial selection is made, such an extensive change from the needs listed in the Request for Information, as in this case, essentially created a new transaction. When that is the case, it is in the best interest of the State to give property owners a fresh opportunity to submit proposals based on the new criteria, to ensure that the State gets the best deal.

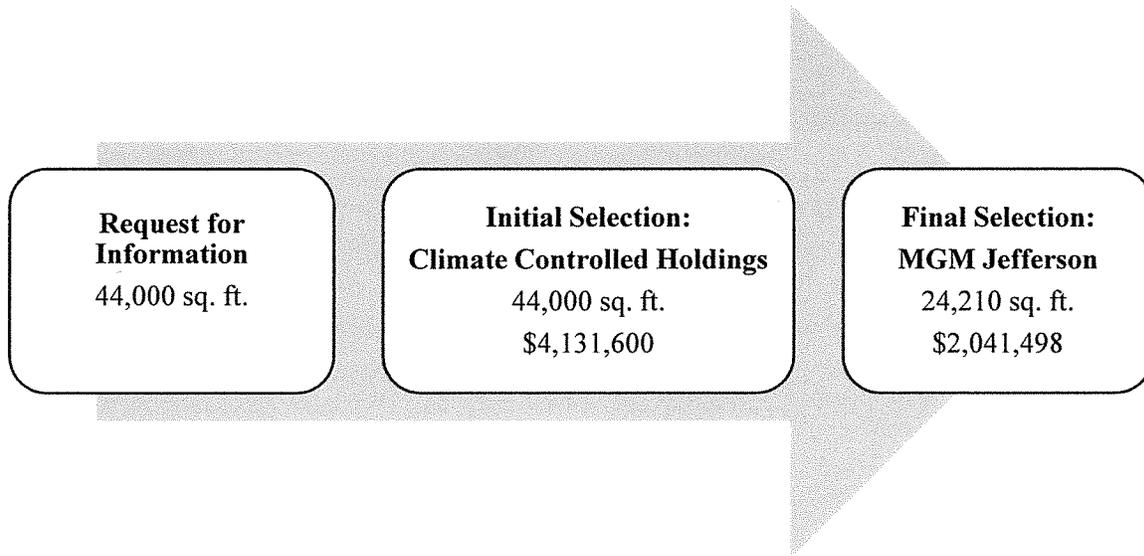
Contrary to the CMS staff’s explanation that they merely swapped out the user agencies, the changes made to these procurements were significant and material. The amounts and types of space that were ultimately leased for DHS and BCCS/DoIT’s use, as well as the costs to the State for those spaces, were significantly different than what was solicited in the Requests for Information, and what was initially proposed and awarded:

Warehouse Lease (DHS)

Given to Climate Controlled Holdings (Barney’s Furniture Property)



Office/Warehouse Lease (BCCS/DoIT)
Given to MGM Jefferson (Harbor Freight Property)



When asked how CMS could execute the DHS lease for more than double the amount of space solicited in the Request for Information that set out DHS’s needs, Mr. Schierholz maintained that an expansion option permitted the change. However, the expansion option outlined in the Request for Information package stated that it was “exercisable by the State *following the lease date* under the same terms and conditions of the lease.”⁹⁴ In addition, although Mr. Schierholz contended that leases contain expansion options for situations like this, no lease had been executed at the time the space increased.

Despite being told by BCCS/DoIT that they wanted to postpone the move until they were immersed into the new agency and had a better understanding of their needs, and even though MGM Jefferson’s Harbor Freight Property was smaller than BCCS/DoIT needed, CMS proceeded to give the BCCS/DoIT lease to MGM Jefferson. The significant decrease in the amount of space provided for the BCCS/DoIT lease, from the 44,000 square feet sought in the Request for Information that set out BCCS/DoIT’s needs, to the lease ultimately given to MGM Jefferson for 24,210 square feet at the Harbor Freight Property, meant that BCCS/DoIT had to sacrifice some of its needs. Even at the time Ms. Florence recommended swapping MGM Jefferson’s Harbor Freight Property into the lease for BCCS/DoIT, she acknowledged that her swap plan would not address all of BCCS/DoIT’s needs. For instance, she noted that her plan would still require BCCS/DoIT staff to remain where they were until their actual space needs could be determined and a new Request for Information could be issued. As Mr. Kraft explained, in order to fit in the smaller Harbor Freight Property, BCCS/DoIT cut its space requirement by storing phones and wiring in an old building that has issues with mold and leaks.

⁹⁴ Emphasis added.

In addition to significantly changing the amounts of space ultimately leased from what was requested, the final selections also were for materially different types of space than the bidders had offered for the Requests for Information to which they did respond: Climate Controlled Holdings' Barney's Furniture Property offer was for office and warehouse space, but the lease it was given was for warehouse space; MGM Jefferson's Harbor Freight Property offer was for warehouse space, but the lease it was given was for office and warehouse space. These changes to the types of space, in turn, meant that significant renovations needed to be completed. For example, the Harbor Freight Property required \$702,570 in renovations to convert MGM Jefferson's warehouse space at the Harbor Freight Property into the office space BCCS/DoIT needed. Although MGM Jefferson agreed to pay for the renovations, the State agreed to pay over \$1.1 million more in rent over the five-year lease term than the amount MGM Jefferson had originally offered in its proposal submitted in response to the Request for Information for warehouse space for DHS.⁹⁵

Despite these significant changes in the required amounts and types of spaces, CMS did not give the original bidders an opportunity to submit new bids based on the changed criteria, to see if a lower-cost option was available. Nor did CMS issue new Requests for Information with the new criteria, to give all other property owners an opportunity to bid based on the new criteria. As Mr. Schierholz acknowledged, it would not have taken much time to redo the Request for Information process for each lease, and it was very possible that other bidders could have made better offers if CMS had issued Requests for Information with the changes to the criteria. Because this was not done, however, the Illinois taxpayers will never know whether they received fair prices for the leases.⁹⁶

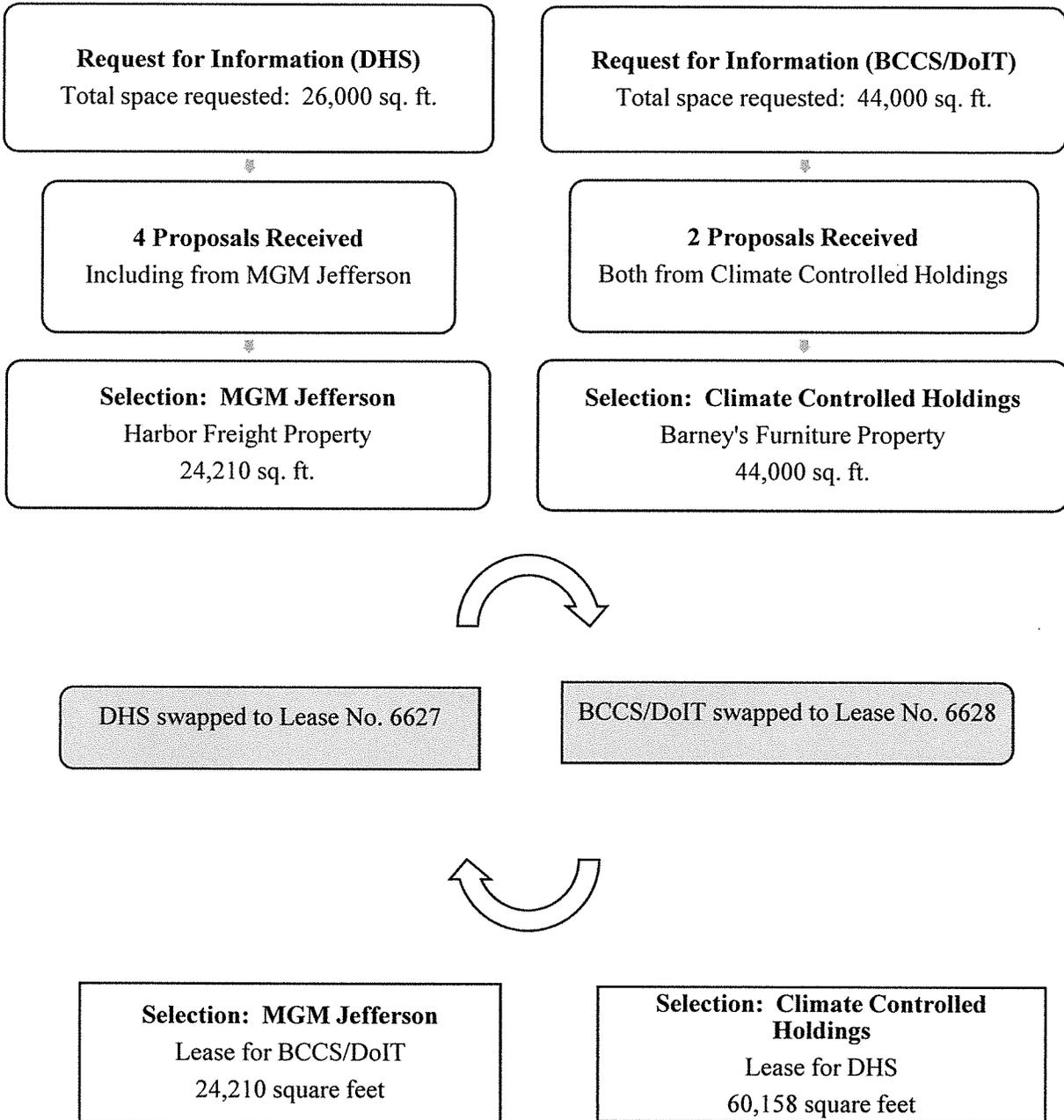
The CMS personnel interviewed in this investigation maintained that the user agencies were merely swapped, and that in each case the lease was given to the property owner that submitted a proposal for that lease, and that each owner got the lease it proposed. It appears that this argument can be represented as follows:

⁹⁵ Moreover, as noted above, after MGM Jefferson made the renovations to the Harbor Freight Property, it ultimately had to sell it when the State failed to make payments.

⁹⁶ In the course of this investigation, the OEIG also discovered that as part of its general practice, CMS did not analyze the cost of purchasing property instead of entering into the leases examined in the investigation, and that despite this, the Capital Development Board certified that its Executive Director had consulted with the Director of CMS in connection with the leases, and the Acting Director of CMS certified that the leases were in the best interests of the State, considering, among other factors, "the cost benefits of purchasing or constructing new space." See 20 ILCS 405/405-300(f) (2015). According to CMS Regional Manager Tim Kraft, as of the time of his interview CMS was preparing to issue a Request for Proposal to have a third party do such analyses in the future. The OEIG recommends that CMS continue these efforts.

CMS Lease No. 6628⁹⁷

CMS Lease No. 6627⁹⁸



However, as discussed above, this simplistic view disregards the other significant changes that occurred even from the offers these companies made:

⁹⁷ Former Senior State Purchasing Officer Arthur Moore said he reviewed these transactions by their Illinois Procurement Bulletin Number, instead of by the CMS Lease Number. Illinois Procurement Bulletin Numbers 22037508 and 22039951 were associated with these actions.

⁹⁸ Illinois Procurement Bulletin Number 22037791 was associated with these actions.

Changes in Award to MGM Jefferson

Warehouse → Office/Warehouse
Rent more than doubled

Changes in Award to Climate Controlled Holdings

Office/warehouse → Warehouse
Amount of space increased by 37%

Although it might not have made an appreciable difference to simply switch the user agencies between the two leases if the user agencies' needs reflected in the Requests for Information had been the same, that is not what occurred here. Rather, DHS and BCCS/DoIT each had their own specific personnel, office, and storage space needs, which were communicated to the public and prospective respondents in the "Agency Programmed Requirements" incorporated in the Requests for Information. Contrary to the Chief Procurement Office staff's characterization of these "Requirements" in their OEIG interviews as a "wish list" that could be disregarded, these criteria were an essential part of the Request for Information; the Requests themselves described the Agency Programmed Requirements as "a substantial and primary document," and advised prospective respondents to "review and heed the information contained therein as a condition of Offering to lease real property to the State."

Moreover, the differences between BCCS/DoIT and DHS's needs, as set out in the respective Requests for Information, were significant. For example, BCCS/DoIT's needs, as set out in the Request for Information, included office space for 155 staff, while the warehouse DHS needed required office space for only 4 staff. Consequently, forcing BCCS/DoIT to squeeze into a space nearly half the size its Request for Information had said it needed, and more than doubling the space provided for DHS from the size its Request for Information had said it needed were changes that went far beyond merely swapping user agencies.

Those Requests for Information, in turn, were the public communications on which property owners based their decisions as to whether or not to submit proposals. Even disregarding which user agency was originally associated with each Request for Information, the respondents responded to requests with particular criteria, and the leases that were ultimately given were materially different from what was described in the Requests to which they responded. *No* Request for Information was issued seeking a lease of 60,000 square feet of warehouse space (as was ultimately given to Climate Controlled Holdings for the Barney's Furniture Property), and *no* Request for Information was issued for a lease seeking 24,000 square feet of office and warehouse space (as was ultimately given to MGM Jefferson for the Harbor Freight Property). Therefore, there would have been no reason for any owner of property that had those characteristics to have responded to the Requests that did issue, and it is impossible to know whether the State could have gotten a better deal for those leases.

In addition to curtailing competition, the process used to select the properties for the DHS and BCCS/DoIT leases lacked transparency. The Procurement Code requires the process of soliciting leasing proposals to be done in a manner that is open to public view, through publishing a Request for Information that includes a description of the property sought, receiving responses, and opening them publicly. However, in this case, the properties that CMS ultimately leased for DHS and BCCS/DoIT did not resemble the criteria described in the published Requests for Information, and the selected properties had not been offered in response to the Requests for

Information for which they were chosen. In addition, CMS staff did not bring the swap to the attention of State Purchasing Officer Arthur Moore or the Procurement Policy Board, who were charged with the important responsibility of overseeing the procurements; indeed, CMS even removed information about the swap from the White Paper prepared for the DHS warehouse lease. Thus, the public, potential lessors, the Chief Procurement Office, and the Procurement Policy Board were kept in the dark about the actual selection process for these leases.

Moreover, the decision to use MGM Jefferson's Harbor Freight Property for the BCCS/DoIT lease also impacted the IDOT lease. Even though MGM Jefferson was the lowest-cost respondent on the Request for Information that resulted in the IDOT lease, prior to even submitting a proposal in response to the Request for Information for the DHS lease, it was not considered for that lease as a result of the July 8, 2016 decision to award it the lease of office and warehouse space for BCCS/DoIT. Instead, the IDOT lease was awarded to the higher-cost respondent, BJD Properties, and CMS ultimately agreed to pay an additional \$172,110 for the renovations needed to provide the office space that IDOT requested in its Space Request. Thus, the total cost CMS agreed to pay BJD Properties for the IDOT lease was over \$500,000 more than MGM Jefferson had offered in its proposal for the Harbor Freight Property. Had CMS instead issued new Requests for Information for the DHS and BCCS/DoIT leases on July 8, 2016, MGM Jefferson's lowest-cost offer still would have been available for the IDOT lease, saving the State money.

CMS is responsible for ensuring that it awards leases competitively and transparently, and for securing leases that are in the best interest of the State, consistent with the purpose and intent of the Procurement Code. Instead, CMS restructured the DHS and BCCS/DoIT leases without soliciting new proposals based on the changed criteria, and without transparency. As a result, the leases were awarded contrary to the Procurement Code's intent and purpose. Accordingly, the allegation that CMS awarded the DHS and BCCS/DoIT leases in violation of the purpose of the Procurement Code and related administrative rules, is **FOUNDED**.⁹⁹

The OEIG was unable to establish whether the actions taken regarding these leases were merely erroneous, or whether they were a result of some improper influence by William Cellini. It is troubling that despite his felony convictions, William Cellini had some involvement with the lease of Climate Controlled Holdings' Barney's Furniture Property, as evidenced by the fact that he was copied on eight emails regarding the property during the leasing process. In addition, although Mr. Cellini is not an owner of record of Climate Controlled Holdings, his involvement at least suggests that he may have used his son-in-law as a straw man in the transaction. However, although the individuals interviewed in this investigation held varying degrees of acquaintance with Mr. Cellini, they all denied having had any contact with him regarding the Climate Controlled Holdings lease. The OEIG found insufficient evidence to conclude that Mr. Cellini did business with the State relating to Climate Controlled Holdings' lease of the Barney's Furniture Property, and therefore that allegation is **UNFOUNDED**.

⁹⁹ The OEIG concludes that an allegation is "founded" when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance.

The investigation revealed that Mr. Smith disclosed Climate Controlled Holdings' proposed rental rate for the Barney's Furniture Property to a representative of MGM Jefferson, before the BCCS/DoIT lease with MGM Jefferson for the Harbor Freight Property was finalized. Former Senior State Purchasing Officer Arthur Moore told investigators that he did not become aware of Mr. Smith's communication until after the BCCS/DoIT lease was executed, but opined that if Mr. Smith did communicate pricing information it would have warranted automatic cancellation of the solicitation, as a matter of transparency.

The Procurement Code generally emphasizes transparency and fairness in competitive procurements. For example, in the context of conducting discussions regarding competitive sealed proposals, the Code prohibits the disclosure of information derived from proposals submitted by competing offerors, and provides that if such information is disclosed to any offeror, it must be provided to all competing offerors.¹⁰⁰ In addition, the Code's confidentiality provision in effect at the time of Mr. Smith's communication prohibited Chief Procurement Officers, State Purchasing Officers, designees, and executive officers from using competitive procurement information in a way that compromises the fairness of the procurement; the Code does not define "designee," but it seems unlikely that this prohibition would not have been intended to apply to others who are involved in the procurement process as well.¹⁰¹ Indeed, a 2017 amendment to that provision specified that all State employees are subject to the restriction.¹⁰² Mr. Smith's disclosure of one competing respondent's pricing information to a single other respondent, during discussions in a competitive leasing procurement, compromised the transparency and fairness of the process. Accordingly, the allegation that Mr. Smith improperly disclosed confidential information during a procurement, in contravention of the Procurement Code's principles of transparency and fairness, is **FOUNDED**.

Finally, the investigation revealed that the problems with the DHS and BCCS/DoIT lease procurements occurred despite the existence of multiple entities charged with overseeing procurements. Although the Chief Procurement Office and Procurement Policy Board have responsibilities designed to act as a check on CMS's leasing procurement decisions, their oversight was ineffective at least in part because CMS did not bring the swap to their attention. Ms. Florence told investigators that CMS Bureau of Property Management staff did not consult the Chief Procurement Office or the Procurement Policy Board before making the decision, and former Senior State Purchasing Officer Arthur Moore said he did not learn of the swap until he was reviewing the lease to MGM Jefferson for the Harbor Freight Property in December 2016, months after he issued the award notice for the lease to Climate Controlled Holdings for the Barney's Furniture Property. Mr. Moore also said that he generally had trouble getting information from CMS.

Moreover, the CMS White Papers on which both Mr. Moore and the Procurement Policy Board relied were misleading. The White Papers for the DHS warehouse lease and the

¹⁰⁰ 30 ILCS 500/20-15(f) (2017).

¹⁰¹ See 30 ILCS 500/50-45 (eff. Jan. 1, 2015 to Aug. 8, 2017) (stating that any "chief procurement officer, State purchasing officer, designee, or executive officer" who "willfully uses or allows the use of specifications, competitive solicitation documents, proprietary competitive information, contracts, or selection information to compromise the fairness or integrity of the procurement or contract process shall be subject to immediate dismissal . . . and may in addition be subject to criminal prosecution.").

¹⁰² See 30 ILCS 500/50-45 (2017).

BCCS/DoIT office/warehouse lease did not mention that the Requests for Information they described, and to which the selected respondents responded, were Requests for Information for different kinds of space for different user agencies. CMS's omission appears to have been deliberate, given that an earlier draft of the White Paper for the warehouse lease for DHS did mention the swap, but that language did not appear in the final version. Without this information, it is highly unlikely that Mr. Moore or the Procurement Policy Board could have known what happened in the procurements.

Changes have been made that may address some of the difficulties Mr. Moore said he experienced with accessing procurement information, and increase the State Purchasing Officer's participation in the procurement process. According to Ms. Daley, the new BidBuy system should allow State Purchasing Officers ready access to all procurement documentation. In addition, Ms. Daley's June 2018 Notice requires State Purchasing Officers to "be involved with the review of responses and discussions with respondents, if necessary to clarify the State's needs or to determine the respondents that meet the minimum criteria set forth in the [Request for Information]," and requires State Purchasing Officers to make written determinations identifying responses that meet the minimum criteria.

Given CMS's failure to provide necessary information about these procurements to Mr. Moore, it is understandable that he did not raise the issues with Deputy Chief Procurement Officer Jan Morrow or Chief Procurement Officer Ellen Daley. However, the OEIG disagrees with the Chief Procurement Office's assessment of the procurements after this issue was brought to that Office's attention. Even in hindsight, with the benefit of all the information, Chief Procurement Office staff maintained in their OEIG interviews that the DHS warehouse lease and BCCS/DoIT office/warehouse lease procurements were proper. The OEIG disagrees with the conclusion that the procurements were proper, especially in light of the Procurement Code's purpose of ensuring that leases are in the best interest of the State.

The Procurement Code directs the Chief Procurement Officers and State Purchasing Officers to safeguard the State's procurement process and maximize the value of the expenditure of State funds.¹⁰³ Merely reviewing whether respondents meet the minimum criteria set forth in the Requests for Information does not seem an adequate measure to ensure that leases are in the best interest of the State, especially in light of the fact that it is the Chief Procurement Office staff's practice to not review CMS's decisions to expand the amount of space to be leased during the negotiation process. Such a restrictive approach would not provide a meaningful check on CMS's procurement decisions, nor does it seem to fulfill the charge to the Chief Procurement Officers and State Purchasing Officers under the Procurement Code.

V. FINDINGS AND RECOMMENDATIONS

As a result of its investigation, the OEIG concludes that there is **REASONABLE CAUSE TO ISSUE THE FOLLOWING FINDINGS:**

¹⁰³ See 30 ILCS 500/50-1 (1998); see also 44 Ill. Admin. Code § 1.5 (2014).

- **FOUNDED** – CMS awarded the DHS and BCCS/DoIT leases in contravention of the purpose of the Procurement Code and related administrative rules.
- **FOUNDED** – CMS Leasing Representative Irvin “Chip” Smith improperly disclosed confidential pricing information during a procurement, in contravention of the Procurement Code’s principles of transparency and fairness.
- **UNFOUNDED** – There is insufficient evidence to conclude that William Cellini did business with the State relating to Climate Controlled Holdings’ lease of the Barney’s Furniture Property, within five years after he completed a felony sentence.

Based on these findings, the OEIG recommends that CMS ensure, through training and proper review, that leasing procurement staff properly award leases in a transparent and competitive manner that is compliant with the purposes of the Procurement Code even if it requires the issuance of new Requests for Information. It is also imperative that CMS provide complete and accurate information to State Purchasing Officers and other Chief Procurement Office staff, as well as to the Procurement Policy Board. The OEIG also recommends that CMS provide training to relevant employees regarding maintaining the confidentiality of procurement information. The OEIG further recommends that CMS take steps to ensure that user agency Space Requests accurately reflect agency needs prior to issuing Requests for Information and conduct a cost benefit analysis to determine whether options other than leasing new space would be more cost effective.

In addition, the OEIG recommends that DHS implement procedures to ensure that it adequately assesses and determines its space needs prior to submitting any future Space Requests, and trains relevant staff regarding making such determinations.

The OEIG also recommends that the Chief Procurement Office – General Services review and clarify its processes for reviewing leasing procurements, to ensure that reasonable actions are taken to safeguard the State’s procurement process, maximize the value of the expenditure of State funds, and ensure that leases are in the best interest of the State. The OEIG further recommends that the Executive Ethics Commission coordinate with the Chief Procurement Office – General Services, if appropriate, to assist in this process.

Date: February 19, 2019

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Melissa Brandenburg
Supervising Investigator #160

Appendix A
Timeline of Relevant Events

Date	DHS Warehouse Lease	BCCS/DoIT Office/Warehouse Lease	IDOT Lease
8/26/15			CMS issues a general Request for Information for 20,000 sq. ft. of climate-controlled warehouse space in Sangamon County (Lease No. 6626)
9/9/15	DHS Space Request for 26,292 sq. ft. of primarily warehouse space		
9/14/15		BCCS/DoIT Space Request for 45,107 of primarily office space	
9/24/15			CMS opens 2 offers: from MGM Jefferson (Harbor Freight Property) and BJD Properties (Eastdale Property)
12/1/15	Request for Information published for 26,000 sq. ft. of primarily warehouse space (Lease No. 6628)		
12/15/15	CMS opens 4 offers, including from MGM Jefferson (Harbor Freight Property) and BJD Properties (split between Eastdale Property and another site) (Lease No. 6628)		
1/19/16		Request for Information published for 44,000 sq. ft. of office and warehouse space (Lease No. 6627)	
2/22/16		Climate Controlled Holdings is organized in Illinois	
2/23/16		Climate Controlled Holdings enters into a contract to buy the Barney's Furniture Property	
2/24/16		CMS opens 2 offers, both from Climate Controlled Holdings, including for the Barney's Furniture Property (Lease No. 6627)	
March 2016	Site visits to 2 proposed sites, including MGM Jefferson's Harbor Freight Property. DHS	BCCS/DoIT begins to express concerns to CMS that the Barney's Furniture Property is unsuitable	

Date	DHS Warehouse Lease	BCCS/DoIT Office/Warehouse Lease	IDOT Lease
	determines that it needs at least 40,000 sq. ft.		
4/20/16	Notice published: MGM Jefferson's Harbor Freight Property offer selected for DHS (Lease No. 6628)	Notice published: Climate Controlled Holdings' Barney's Furniture Property offer selected for BCCS/DoIT (Lease No. 6627)	
7/5/16			IDOT Space Request for 15,000 sq. ft. of warehouse space and 4,442 sq. ft. of office and other space
7/7/16			Schierholz approves IDOT Space Request
7/8/16	Florence recommends using Climate Controlled Holdings' Barney's Furniture Property for the DHS warehouse lease	Florence recommends using MGM Jefferson's Harbor Freight Property for the BCCS/DoIT office/warehouse lease	Florence recommends awarding the IDOT lease to BJD Properties (Eastdale Property)
8/10/16	Schierholz email approving Barney's/Harbor Freight substitution	Schierholz email approving Barney's/Harbor Freight substitution	
8/24/16			Lease between CMS and BJD Properties for the Eastdale Property (Lease No. 6626)
8/26/16			CMS White Paper (Lease No. 6626)
8/29/16	Email regarding Barney's Furniture Property copies Cellini		Final Recommendation Form (Lease No. 6626)
8/31/16			Notice of Lease Award for BJD Properties' Eastdale Property (Lease No. 6626)
9/13/16	3 emails regarding Barney's Building Lease copy Cellini		
9/14/16	Final Recommendation Form (Lease No. 6627)	Smith emails real estate agent [Agent], mentions the rate from Climate Controlled Holdings' proposal	
9/16/16	Email regarding Barney's Furniture Property copies Cellini		
9/19/16	Lease between CMS and Climate Controlled Holdings for the Barney's Furniture Property (Lease No. 6627)		

Date	DHS Warehouse Lease	BCCS/DoIT Office/Warehouse Lease	IDOT Lease
9/30/16	Email regarding Barney's Furniture Property sent to Cellini CMS White Paper (Lease No. 6627)		
10/4/16	Notice of Lease Award to Climate Controlled Holdings (Lease No. 6627)		
10/27/16	Email regarding Barney's Furniture Property copies Cellini		
11/10/16	Email regarding Barney's Furniture Property copies Cellini		
11/21/16		Final Recommendation Form (Lease No. 6628)	
12/12/16		Lease between CMS and MGM Jefferson for the Harbor Freight Property (Lease No. 6628)	
12/19/16		CMS White Paper (Lease No. 6628)	
12/22/16		Notice of Lease Award to MGM Jefferson (Lease No. 6628)	
2/24/17		Procurement Policy Board certifies no objection to the lease	

Office of Executive Inspector General
for the Agencies of the Illinois Governor
www.inspectorgeneral.illinois.gov

AGENCY OR ULTIMATE JURISDICTIONAL AUTHORITY
RESPONSE FORM

Case Number: 17-00626

Return 20 Days After Receipt

Please check the box that applies. (Please attach additional materials, as necessary.)

We have implemented all of the OEIG recommendations. Please provide details as to actions taken:

We will implement some or all of the OEIG recommendations but will require additional time to do so.
We will report to OEIG within 21 days from the original return date.

We do not wish to implement some or all of the OEIG recommendations. Please provide details as to what actions were taken, if any, in response to OEIG recommendations:

Signature

CMS, Deputy General Counsel, BOPM
Print Agency and Job Title

Kathleen Abbott
Print Name

3/20/19
Date



ILLINOIS

JB Pritzker, Governor

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

Janel L. Forde, Acting Director

April 10, 2019

VIA: ELECTRONIC MAIL

Office of the Executive Inspector General
Attn: Angela Luning, Deputy Inspector General
69 W. Washington Street, Suite 3400
Chicago, IL 60602

Re: OEIG Case No. 17-000626

Dear Ms. Luning:

This letter serves as the response of Department of Central Management Services (CMS) to the Office of Executive Inspector General (OEIG)'s Final Summary Report (Report) for the above referenced case. CMS has taken extensive and concrete steps to address the findings of the Report by improving its leasing process over the past year, as set out below.

The Office of Auditor General (OAG) conducted a performance audit of CMS's leasing decisions related to the Springfield warehouse leases that are the subject of this Report. In response to the OAG report, CMS investigated and analyzed the procurements in question and its leasing department as a whole. Those examinations resulted in the following actions, which also address the findings and recommendations set out in the OEIG Report:

1. **Revamping Leasing Process:** CMS, through its Bureau of Property Management (BoPM) and the Chief Procurement Officer for General Services (CPO)'s office worked together to review and completely revise CMS's existing leasing solicitation document (Request for Information (RFI)) and leasing process. This collaboration resulted in a fully revamped RFI template that is easier to understand and more tailored to leasing's unique procurement requirements. At the same time CMS took a thorough look at its leasing process and changed it to ensure it fostered competition and transparency, and complied with both the letter and the purpose of the Procurement Code. The new process includes tiered financial analysis – an initial analysis upon receipt of responses and secondary analysis once construction costs are more defined. It also encourages a more robust negotiation process, in addition to the statutorily required negotiation, for respondents who are

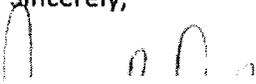
found to be viable and suitable. CMS's revisions to the leasing process to improve cost benefit analysis of its lease analysis are discussed below.

2. Moratorium on new leasing procurements: CMS and CPO's office agreed that the gravity of this project necessitated a hold any new leasing procurements until CMS completed a review of its leasing processes and documents. As a result, CMS did not issue any new RFIs from June 2018 until March 2019 (lease renewals were not included in the moratorium).
3. Training BoPM Staff: BoPM held a training for its leasing staff and facility managers in June 2018 to address issues highlighted in the OAG's report. BoPM has experienced significant personnel turnover in the past six to eight months; BoPM will on-board over 50% new staff in the leasing and transaction department by mid-April 2019. For that reason and in light of the moratorium on leasing procurements, BoPM waited to schedule a comprehensive training session for its entire leasing and facility manager staff until the new RFI template was complete. This training, scheduled for April 17, 2019, will educate staff about the new RFI document and updated leasing process. It will also reinforce Procurement Code requirements and restrictions, with particular focus on the importance of maintaining confidential information. The training will emphasize best practices in space usage measurements to help Using Agencies accurately assess their needs in Space Requests.
4. Conversations with Capital Development Board (CDB): CMS has historically relied on the CDB's analysis of the costs/benefits of leasing versus purchasing or constructing new space based on statutory requirements set out in 20 ILCS 405/405-300(f). As a result of the OAG's audit CMS worked with the CDB to revise this process to improve CDB's analysis and final recommendation. CMS and CDB met to talk through CDB's analysis methodology. As a result of this discussion, CMS is revising the information it provides to CDB to improve the analysis and provide for a more fulsome and accurate result. CMS anticipates CDB's improved analysis will be included in its leasing process by the end of April 2019.
5. Ratification: CMS acknowledged that one of its leasing representatives acted improperly by disclosing confidential information to another respondent. CMS determined it was an isolated incident and the OAG did not document any advantage gained by the respondents due to the representative's actions. Even so, in an abundance of caution, CMS asked the CPO to ratify the leases. Because both Using Agencies are satisfactorily occupying their respective spaces and the cost to relocate the Using Agencies would be substantial – an additional unnecessary cost to the State – the CPO found it was in the best interest of the State to ratify the leases, which she did on March 13, 2019.

CMS takes the Recommendations of the OAG report and the Findings and Recommendations of the OEIG Report seriously and has taken extensive action to address the underlying issues and

immediate concerns set out in each. CMS believes these actions have sparked real and lasting improvements to its leasing process and address each of the findings in the Report. We are happy to discuss any specific questions you may have or additional concerns regarding the subject of the Report.

Sincerely,



Janel L. Fordg
Acting Director

Cc: Whitney Rosen, Deputy General Counsel, Office of the Governor

RECEIVED

MAY 01 2019

EXECUTIVE ETHICS COMMISSION

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: CMS

) #17-00626

RESPONDENT'S SUGGESTIONS FOR REDACTION / PUBLIC RESPONSE

Please check the appropriate line and sign and date below. If no line is checked, the Commission will not make your response public if the redacted report is made public.

Below is my public response. Please make this response public if the summary report is also made public; or

Below are my suggestions for redaction. I do not wish for these suggestions to be made public.

[Signature]
Respondent's Signature

5/1/19
Date

Instructions: Please write or type suggestions for redaction or a public response on the lines below. If you prefer, you may attach separate documents to this form. Return this form and any attachments to:

Illinois Executive Ethics Commission
401 S. Spring Street, Room 513 Wm. Stratton Building
Springfield, IL 62706

See attached

MEMORANDUM

RECEIVED

MAY 01 2019

TO: Executive Ethics Commission

FROM: Janel L. Forde, 
Acting Director

EXECUTIVE ETHICS COMMISSION

DATE: May 1, 2019

SUBJECT: Respondents Suggestions for Redaction/Public Response

The Department of Central Management Services appreciates the public interest in, and respects the legislative and regulatory oversight of its property leasing processes. With respect to Springfield-area warehouse leases, CMS responded comprehensively to address the concerns identified in the OEIG report. In CMS's letter to the OEIG dated April 10, 2019, it detailed the substantive changes the Department has put into action to improve its processes and documentation such as overhauling its procurement documents, adjusting its leasing process, and hosting additional training for leasing staff. As responsible stewards of taxpayer dollars, CMS continually strives to improve and advance its operations.

Dear Executive Inspector General Haling:

Thank you for your summary report in investigation 17-00626. As you know, the Executive Ethics Commission referred issues related to this investigation to the Office of Executive Inspector General in April 2017. The Commission has reviewed the findings contained in this summary report and agrees with all of them.

Your recommendations include that the Executive Ethics Commission coordinate with the Chief Procurement Office—General Services, if necessary, to review and clarify its processes for reviewing leasing procurements.

Chief Procurement Officers exercise all procurement authority under the Illinois Procurement Code and are responsible to the Commission. The Commission, acting in its oversight capacity, has inquired of CPO Ellen Daley what steps she has taken to address the findings.

In response, CPO Daley noted that CPO Notice 2018.08, issued June 4, 2018, required:

- All leasing procurements to be conducted in BidBuy
- Agency to document outreach efforts
- Revision of the RFI (solicitation) template to clearly reflect minimum criteria
- If a respondent proposes a property that must be altered to meet the minimum criteria, the pricing submitted in the response must reflect those alterations
- Determination of Qualifying Responses to document SPO approval
- SPO inclusion in negotiations
- Elimination of initial selection notice

She further noted that all leasing solicitations were stopped until a new RFI template was developed. The first RFIs (solicitations) using the new template were issued March 2019.

She also noted that steps an SPO is required to take in the RFI process have now been documented and may be used as a checklist and as a training tool. Also, the SPO is providing CMS Bureau of Property Management staff with communications and procurement training.

We believe that these steps will help address findings contained in your summary report.

Illinois Executive Ethics Commission