

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

**Monday, August 26th, 2019 - 1:30 PM – 3:30PM
MONTHLY COUNCIL MEETING MINUTES**

100 W. Randolph
Room 2-025
Chicago, Il 60601

401 S. Spring St.
Room 500 ½
Springfield, IL 62706

COUNCIL MEMBERS IN ATTENDANCE

Denise Barreto; Alex Bautista; Beth Doria; Emilia DiMenco; Karen Eng; Sheila Hill Morgan; Larry Ivory; Sharron Matthews; Edward McKinnie; Hedy Ratner; Sharla Roberts;

COUNCIL MEMBERS NOT IN ATTENDANCE

Derrick Champion; Bola Delano; Kaney Frances O’Neill; Jesse Martinez; Jaime di Paulo; Jorge Perez;

COUNCIL CHAIR

Janel Forde

COUNCIL SECRETARY

Terrence Glavin

CMS STAFF IN ATTENDANCE

Michael Merchant; Radhika Lakhani; Elias Ricks Ngwayah II; Carlos Gutierrez; Harry Reinhard; Patricia Boscan; Jeanetta Cardine; Irma Lopez

OTHERS IN ATTENDANCE

Thomas Bowling; David Lockman; Carl West; Herb Stokes; Phillip Barreda; Michelle Flagg; Celeitra Clay; Andrew Johnson; Charles Harrell II; Al Coleman; James F. Clayborne; Patrick Thompson; Kimberly McCullough-Starks; Lorell Williams; Will Davis;

100 W. Randolph
Room 2-025
Chicago, IL 60601

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

AGENDA

August 26th, 2019
1:30 p.m. – 3:30 p.m.

- I. Welcome
- II. Call to Order
- III. Roll Call – Terry Glavin
- IV. Approval of Minutes of Council Meeting held on June 24, 2019
- V. Chair’s Report – Janel Forde
- VI. Subcommittees Reports
 - Certification Subcommittee Report
 - Outreach Subcommittee Report
 - Compliance Subcommittee Report
- VII. Old Business
 - Update on Utilization Plan
 - Update on the Data-Sharing and Usage Agreement
 - Update on the One-Pager
 - Update on Obama Energy/Wesco Contract
 - Update on the Internet Egress RFP
- VIII. New Business
 - Verizon/The IT Architect Corporation
- IX. Sheltered Market
- X. Public/Vendor’s Testimony
- XI. Adjournment
 - Next Subcommittee Meetings
 - Certification Subcommittee Meeting – September 23, 2019
 - Outreach Subcommittee Meeting – September 24, 2019
 - Compliance Subcommittee Meeting – September 25, 2019
 - Next Council Mtg. – October 28, 2019

Please note: In case you need to connect to the meeting via teleconference, please use the following number and access code:

Teleconference Number: 888-494-4032

Access Number: 2587213722

BEP Outreach Events: <http://www.illinois.gov/cms/events/SitePages/List.aspx>

Note: There will be no IPB Notices and Solicitations Reports for this meeting.

PUBLIC NOTICE STATE OF ILLINOIS

Business Enterprise Council for Minorities, Females, and Persons with Disabilities

MINUTES

August 26th, 2019
1:30 p.m. – 3:30 p.m.

I. Welcome

II. Call to Order

III. Roll Call

IV. Approval of Minutes of Council Meeting held on June 24th, 2019

V. Chair's Report

- Welcoming of New Assistant Director Michael Merchant
Chair Forde applauded Member Ivory and the event put on by the Illinois Black Chamber of Commerce in Peoria in early August. Chair Forde took the opportunity to introduce the new Assistant Director, Michael Merchant. Assistant Director Merchant will oversee the Bureau of Strategic Sourcing (BOSS) as well as the Business Enterprise Program (BEP). Chair Forde stated the purpose of having both bureaus report to Assistant Director Merchant is to force greater alignment, intentionality, and to have one point of accountability. Chair Forde stated that she believes Assistant Director Merchant is the right person to be leading these bureaus.
- New General Counsel, Terry Glavin
Chair Forde announced Terry Glavin's new role as General Counsel, and that he will continue to be involved with BEP.
- Introduction of Radhika Lakhani
Chair Forde introduced Ms. Radhika Lakhani as a CMS attorney with a background in procurement and labor law. Ms. Lakhani has already collaborated on several special projects and will continue to provide support to Terry and the BEP and Procurement teams.
- Document Submission to CMS Regarding Participation and Exemptions
Chair Forde appreciated feedback received from both sides and stated that we are seeing the intersection between policy and implementation. She stated that it is an expectation of CMS to receive plans in compliance with the motion passed and the direction set forth by the Council in December of 2018. Member Roberts asked to clarify whether the plans have already been received and cited the new compliance plan cycle. Assistant Director Merchant confirmed receiving a significant number of plans and that some agencies have requested extensions to figure out how to comply with the requirement.

Chair Forde recognized former Senator Clayborne and Representative Davis and thanked them for joining the Council meeting.

VI. Subcommittee Reports

- Certification Subcommittee Report - Chair Sharla Roberts

A meeting was held on July 22nd, 2019 that heard five (5) appeals for certifications. The committee voted to overturn two (2) denials and upheld denial on three (3).

- Outreach Subcommittee Report – Chair Emilia DiMenco

Chair DiMenco reported that the subcommittee discussed strategies on how to measure success, searching for available data, and measuring progress in that way.

The subcommittee discussed a BEP onboarding document to eliminate impediments of the new member becoming operational. The subcommittee also discussed attendance guidelines to make the subcommittee and Council more effective. Chair DiMenco stated that the proposed attendance guidelines will be submitted to the Council for review and discussion.

Counsel Glavin added that research was completed to make sure the attendance policy was in accordance with the Open Meetings Act, Robert's Rules of Order, and will make the policy not only acceptable but legally compliant.

Member Roberts stated that the attendance policy is already outlined within the Open Meetings Act.

Counsel Glavin clarified that statutes are structured generally and not always mindful of how specific organizations operate. He stated that the committee wants to make sure the policy takes this Council's practices into consideration.

- Compliance Subcommittee Report – Sharla Roberts

Chair Roberts stated the last meeting was held on August 19th, 2019. The group discussed processes and documentation for penalties relating to the enforcement of the program. Chair Roberts stated Ms. Lakhani would be doing research to help with presentation to the Compliance Subcommittee. The subcommittee also discussed how compliance is monitored across four different Chief Procurement Officers (CPOs). The subcommittee is conducting surveys to gather information to streamline process to monitor contracts awarded by the State of Illinois.

Chair Forde opened the floor for questions and comments. Member Matthews expressed believing the Council is at a crossroads in terms of the Compliance Plan that seals the partnership between BEP Council and CMS, State agencies, State Universities, and free boards and commissions. Member Matthews also noted representing the Department of Human Services on the Council and stated that the agency could not meet BEP expectations without exemptions. She expressed feeling general confusion and discontent among the other State agencies and asked the Council to provide more guidance to vendors.

Chair Forde thanked Member Matthews for her comments and for providing a representation of some State agency perspectives. Chair Forde stated recognizing that several agencies, like DHS, are finding different challenges such as not having enough vendors. She reminded the Council that it is the job of the Council to provide guidance to agencies regarding how to comply, and that inclusive practices are important to the Governor and that he is committed to a way of engaging and doing work and it is the Council's job to find a way to make it happen.

Member Roberts expressed confusion regarding the difference between implementation. She stated the Council decided in January to reject additional requested exemptions for 2019, but that FY 2020 is a new implementation cycle in which compliance plans may contain requests for exemptions with explanations as to why each exemption is necessary. Member Roberts expressed her concern that compliance plans are not submitted on time with or without exemptions. Member Roberts stated that compliance plans for FY 2020 were currently due and that agencies and institutions of higher education not submitting their plans are in violation of the Act.

Member McKinnie also expressed confusion regarding the discussion to overturn the decision made by the Council in January. He stated that it was the time to perform and provide for BEP vendors so that they can prosper. Member McKinnie added that it would be better to make the effort to submit compliance plans that short of the goal than failing to submit them at all.

Member Matthews clarified her position that the Council should reconsider how to implement if half of the "partners" from which vendors are profiting, are struggling to meet a goal. Member Matthews added that most agencies struggling are the larger ones.

Member Barreto stated that when the Council heard from the “disparity study” that helped inform the decision to reject exemptions, the Council was not asking agencies to go from one extreme to another. Rather, the Council was asking agencies to be more critical and apply further examination to their plans. Member Barreto stated other methods in the past have not worked and so came the decision to not accept exemptions. She expressed the importance of agencies showing their effort in examining their budgets and finding places for improvement, particularly when she, herself along with the Council are volunteering time.

Member Matthews stated that DHS had been told that FY 2020 was the implementation of the no exemption policy and not FY 2019 because it was developed and set in FY 2019. She stated that this plan could not be implemented in FY 2019 because it was decided in the middle of FY 2019. Member Matthews stated state agencies have been writing letters and calling the Council asking for guidance, because currently the Council has no process in place that can clear the confusion on how to go forward with the compliance plans so that agencies can work with BEP as partners.

Member Ivory called the policy a crossroads for the Council and stated that it needs to have a process by which it will examine how to improve the situation arising from confusion on how agencies should present their compliance plans, and that agencies should present a plan that speaks to the issue (not having enough certified BEP vendors). He asked how many people had suffered because the Council hadn’t moved the agenda forward. He stated being proud of moving it forward now, under this administration, but that the Council needs to be very intentional and unapologetic in terms of fixing the problem.

Member DiMenco agreed with Members McKinnie, Barreto and Ivory. She repeated the decision was made based on the “disparity study”. She stated compliance plans need to be submitted and the Council needs to know what can and cannot be done by each agency. Member DiMenco is not supportive of reducing the goal.

Chair Forde that the topic is incredibly important and complicated and that it has not been resolved. She stated many board members had not gone on record with their positions on the topic. Chair Forde encourages participation and attendance at subcommittee meetings where guidance and clarity will be able to be provided back to agencies.

VII. Old Business

➤ Update on Utilization Plan

Previously, a final draft Utilization Plan was provided to the full Council meeting. Counsel Glavin received comments from CPOs and some objections from Council members to include more revisions and improvements. Counsel Glavin gave a special thanks to Member Roberts and CPO Ben Bagby for putting forth great effort in helping. Another CPO meeting is to be scheduled and Compliance Subcommittee members have asked to be part of the meeting to make a collaborative effort toward making the Utilization Plan the best final product. Counsel Glavin will soon provide an update to the full Council meeting as well as the Compliance Subcommittee meeting.

➤ Update on the Data-Sharing and Usage Agreement

Counsel Glavin noted two components to the Data-Sharing and Usage Agreement: 1. The recently executed data-sharing agreement with the Comptroller’s Office. 2. The data exchange between BidBuy and CMS.

Issues with data-sharing at the Comptroller’s Office have been addressed and data is flowing efficiently as confirmed by the Office. The Comptroller’s Office offered to have Corey Jung give a 5-10-minute presentation on how data is being transferred.

Regarding BidBuy, Assistant Director Merchant reported working with CPO Ellen Daley who requested a meeting with BEP Staff, including Harry Reinhard, Carlos Gutierrez, to dig deeper into what the true needs are to have a seamless flow of information.

- Update on the One-Pager
Counsel Glavin reported the one-pager is close to finalizing content. Minor edits will be made to make the document look and read in a user-friendly way for both marketing and informational purposes for the public.

Member Barreto requested to review the one-pager. Counsel Glavin invited Member Barreto to the Outreach Subcommittee meeting to participate in one-pager's collaboration.
- Update on Obama Energy/Wesco Contract
Counsel Glavin stated the planned dispute resolution process was underway to try to mend and make sure the business relationship moves forward in a healthy way. Both parties attended their first dispute resolution meeting and a second meeting will be scheduled.
- Update on the Internet Egress RFP
Assistant Director Merchant reported having a brief conversation regarding the RFP that is very close to being issued. He will be meeting with those issuing the RFP and a main agenda item is to ensure hitting BEP compliance. Assistant Director Merchant's initial understanding is that they will be able to. He will report updates at the next full Council meeting.

VIII. New Business

- Verizon/The IT Architect Corporation
Counsel Glavin reported that currently there is a dispute regarding a substitution request that would impact The IT Architect Corporation. Counsel Glavin stated being in communication with the end-user (DoIT). DoIT has sent out a written request to both sides to receive written submissions on both sides about whether substitution should be allowed. The process may include an in-person meeting between both sides so that substitution does not take place outside the view of the Business Enterprise Program.

Counsel Glavin asked whether there would be a motion to move up public testimony specific to this business item and whether the Chair would consider the motion. The Chair considered the motion. Member Barreto made the motion and Member McKinnie seconded. Motion passed.

For testimony on the topic, Counsel Glavin introduced James Clayborne, Al Coleman, and Charles Harrell.

Mr. Charles Harrell II, CEO of The IT Architect Corporation (ITA), stated, "Here we go again", regarding the cellular services equipment contract (contract CMS 793372P). The initial contract term is three years. Mr. Harrell stated during the initial three-year period, the company has performed without any issues from the IT organization. They later received notice from Verizon with their decision not to renew without explanation. Mr. Harrell II stated that ultimately Verizon is trying to say that they made a mistake regarding the scope of work, and that the work never existed even though it is stated in the Letter of Intent and in the RFP. The Letter of Intent, RFP and scope of work in master contract were submitted to the Council. Mr. Harrell's closing request was for Verizon to rescind the letter not to renew and commit to the company with the condition of no retaliation.

Al Coleman, Corporate Counsel for ITA stated, "It is our opinion Verizon acted with flagrant disregard to the BEP rules and laws of Illinois." The evaluation of the letter was that it was a direct contradiction to Administrative Code 44 1.2005 subpart u 3b. "Verizon's actions preclude a BEP partner from performing because they are themselves performing the work designated by contract for the BEP partner in violation of BEP guidelines 7.3."

Former Senator Clayborne stated there not being anyone to monitor and enforce the contract that the vendor has signed. Former Senator Clayborne emphasized the importance of accountability

and a monitor through the beginning, middle and end of a contract. He added that a BEP vendor should be able to have a disagreement with a prime without being blackballed.

IX. Sheltered Market

Counsel Glavin reported that CMS has been in talks with DoIT and they are researching opportunities for sheltered markets.

He added that a process CMS wants to facilitate is the ability to identify new sheltered markets and the ability to gather data and analyze it in support of sheltered markets. Counsel Glavin stated staying mindful of Member Matthew's comments at the last full Council meeting including additional expertise (skillset of policy analysis, data analysis collection and the ability to digest it). A CMS policy member is participating and gathering information on how to support policy development underlying sheltered markets.

Member Roberts inquired about whether any information was sent out to end-users on how to utilize the sheltered market declared for advertising? She also wanted to know when the Council will be receiving, reviewing and discussing sheltered markets.

Member Ivory stated that the sheltered market was one of the most important pieces of procurement that is only recently being taken advantage of. He stated, "We need the leadership here to help us move that agenda forward... We need to grow sheltered markets where we have legitimate rights to do so."

Counsel Glavin will collect what communications went out previously upon approval of the sheltered market and will report back and look for ways that we can improve the outreach to different agencies. He will look at what has been done and what can be improved.

X. Public / Vendors' Testimonies

- Thomas Bowling, President and CEO of Corporation, asked the Council to think back to a time in history in 1968 when the Fair Housing Act passed. He stated, "because of that, all of us here get to live where we want to live." Mr. Bowling pointed out the pushback the law received. He asked the Council to remember just how long implementation of the law took which he stated to be 20 years. Mr. Bowling stated that exemptions would prolong BEP vendor challenges in a comparable way.
- David Lockman stated the need for new ideas at the table.
- Carl West, Cofounder of Chicago Media Alliance, stated struggling with state agencies in terms of how they spend their advertising dollars with black-owned media. Mr. West reported receiving press releases and announcements from state agencies almost daily yet black-owned media had received zero advertising dollars.
- Counsel Glavin stated following up with Mr. Patrick Thompson via email to which he responded with items he wanted addressed including; discriminatory practices of the State, opportunities where subcontractors can have direct contracts with the State, data on good faith efforts, formalizing complaint processes, and information on transparency.
Mr. Patrick Thompson, who joined the meeting via phone, inquired on a response to his email. Counsel Glavin explained that the information asked for is being gathered to provide an email response to the five items. Counsel Glavin stated that he would provide Mr. Thompson with a timeline within a week of the Council meeting. Mr. Thompson also inquired on compliance plans and sheltered markets. Chair Forde responded that plans go to the Compliance Subcommittee for review. She stated the information for sheltered markets will be brought to Chair Roberts and that there will also be a presentation made to the Council with public participation.
- Michelle Flagg, owner of Redacre Solutions Inc., stated making an appeal for the Council to visit the exemption request. Ms. Flagg also suggested a best practices method she recalled from a summit she attended. She stated that "corrective action meetings" with the vendor and procurement took place rather than allowing waivers.

- Andrew Johnson, Executive Director of the Native American Chamber of Commerce of Illinois. Mr. Johnson extended the Chamber's appreciation and support of the Council. He stated celebrating the Native American Employment Plan Act becoming law. Mr. Johnson expressed his intentions to continue to attend BEP Council meetings seeking representation and inclusion of the American Indian business community on the Council. He expressed his hopes to establish a dialogue outside of meetings as well.
- Deputy Director, Kimberley McCullough-Starks, of the Department of Healthcare & Family Services, asked for clarification on two contradicting directives from the Council: adding reasons to compliance plans asking for exemptions and the exemptions not being considered at all. Ms. McCullough-Starks stated the agency needed direction as to how it should proceed.

Member Roberts stated that the law is very clear on the responsibility of agencies. The plan is beyond requested exemptions; it details how to meet their goal. Now agencies must submit their FY 2020 compliance plans detailing how they plan to meet their goal, detailing requested exemptions including justifications of their exemptions.

Member Matthews stated that the instructions given did not include a FY 2019 implementation. She stated that the Council's decision to reject exemptions was approved in FY 2019 but was told that a year would be given so that agencies could get ready. Member Matthews stated that individuals coming into the State did so at the beginning of this year and were not aware of the Council's vote to reject exemptions.

Member Barreto stated she understood that the exemptions would be further discussed at the Compliance Subcommittee meeting. She stated that plans needed to be submitted in order for the Council to respond.

Member Roberts reiterated that the decision made in December 2019 was for the current fiscal year at that moment.

Chair Forde stated that the Council will clarify and that we need to see plans.

XI. Adjournment

Member McKinnie motioned to keep the Compliance Subcommittee meeting on September 25th, 2019. Member Barreto seconded. Motion passed.

Member Barreto motioned that the Council accept plans turned in from agencies "in whatever state that they come in" at the next Compliance Subcommittee meeting on September 25. Member Roberts seconded. Motion passed.

Meeting adjourned at 3:30 p.m.

- Next Subcommittee Meetings
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