

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

**Monday, October 22, 2018 - 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

Sharla Roberts; Tim McDevitt; Beth Doria; Jaime Di Paulo; Emilia DiMenco; Denise Barreto; Jesse Martinez; Karen Eng; Khari Hunt, Alex Bautista; Bola Delano; Jorge Perez; Larry Ivory

COUNCIL MEMBERS NOT IN ATTENDANCE

Shelia Hill-Morgan; Hedy Ratner; Edward McKinnie; Derrick Champion

COUNCIL CHAIR

Tim McDevitt

COUNCIL SECRETARY

Cate Costa

CMS STAFF IN ATTENDANCE

Terrence Glavin, Elias Ricks Ngwayah II; Harry Reinhard; Carlos Gutierrez; Irma Lopez; Leslie Taylor; Jeanetta Cardine

OTHERS IN ATTENDANCE

Elizabeth Oplawski; Ana Simpson; Nassir Faulkner; Charles Harrell II; Charles Harrell Sr; Harold Mays; David Lockman; Thomas Bowling; Maria Prado; Timothy Watson; Gustavo Giraldo; Annia Kelly; Rodney Hodge; Joe Kim; Ben Jones

PUBLIC NOTICE
STATE OF ILLINOIS
Business Enterprise Council for Minorities, Females, and Persons with Disabilities

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

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

AGENDA

October 22, 2018
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 August 27, 2018
- V. Chair's Report
- VI. Subcommittees Reports
 - Certification Subcommittee Report - Chair Sharla Roberts
 - Outreach Subcommittee Report – Chair Emilia DiMenco
 - Compliance Subcommittee Report – Chair Sharla Roberts
- VII. Old Business
 - Guest Speaker: Office of the Comptroller, Bola Delano
 - Guest Speaker: Department of Corrections: Gladys Taylor
 - Sheltered Market in Advertising Update
 - Update on vendor/contract concerns
 - Obama Energy/Wesco
 - Lottery/Camelot
 - CMS' budget and dollars subject to goal
 - Tollway Bond Counsel
 - Utilization Plan and Letter of Intent update
- VIII. New Business
 - Discussion about holiday season meeting schedule
 - Collaboration with Fair Practices in Contracting Task Force
- IX. Public/Vendor's Testimony
- X. Adjournment
 - Next Subcommittee Meetings
 - Certification Subcommittee Meeting – November 26, 2018
 - Outreach Subcommittee Meeting – November 27, 2018
 - Compliance Subcommittee Meeting – November 28, 2018
 - Next Council Mtg. – December 24, 2018

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>

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MINUTES

October 22, 2018
1:30 p.m. – 3:30 p.m.

I. Welcome

Chair McDevitt welcomed all to the BEP Council Meeting.

II. Call to Order

Acting Chair Jones called meeting to order and requested a roll call at 1:35pm.

III. Roll Call

Secretary Costa conducted roll call and quorum was not established for this meeting.

IV. Approval of Minutes of Council Meeting held on August 27, 2018

Chair McDevitt postponed the approval of the minutes until quorum is established.

V. Chair's Report

- Chair Jones introduced two new members of the Council: Jaime Di Paulo from the Little Village Chamber of Commerce and Jorge Perez.
- Member Ivory arrived, and quorum is established. However, member DiMenco pointed out some errors in the minutes and asked for those errors to be corrected. Chair McDevitt said the minutes will be further reviewed and reworked and then resubmitted for approval at the next meeting.
- Chair McDevitt informed the Council about a major contract that was awarded to JLL to take care of a lot of CMS facilities. He said the contract is worth many millions of dollars and could extend up to 10 years. He further said there will be 3 BEP vendors that are going to be sub contracted.

VI. Subcommittees Reports

- Certification Subcommittee Report - Chair Sharla Roberts
 - Chair Roberts said the Certification Subcommittee meeting was held on Monday, September 24th and they voted to uphold the decision that was previous made by the Business Enterprise Program.
- Outreach Subcommittee Report – Chair Emilia DiMenco
 - Chair DiMenco said the subcommittee met on September 25, 2018 and approved the minutes from the prior meeting. She further said the meeting covered 3 areas: 1) It covered the survey

of who to speak at the full council meeting; 2) Outreach and measurement; and 3) other areas of interest to the full Council. She outlined the action items of the meeting as

- Finalizing the survey of speakers to appear before the full Council
- Continue to work on measurement

- Compliance Subcommittee Report – Chair Sharla Roberts

- Chair Roberts said that the Compliance Subcommittee meeting was held on Wednesday, September 26, 2018 and discussed requested exemptions. She urged the full Council to vote on the document relating to denying requested exemptions. Chair McDevitt recommended that the Council members review the document and toward the end of the meeting the Council will vote on the document.

Old Business

- Guest Speaker: Office of the Comptroller, Bola Delano

- Chair McDevitt informed the Council that the Office of the Comptroller will now have a representative on the BEP Council in an advisory role. Member Roberts wants to know whether that was by legislation. Chair McDevitt said yes. Member Doria wants to know what that person will be advising the Council about. Chair McDevitt said they can attend, engage in policy conversation but they cannot vote. He said they are not a voting member.

Member Delano said a lot of things that will be discussed, she will take back and will get a proper response. She said her office is promoting the agenda of transparency and accountability and will be glad to share updates with the Council. She said she have had meetings in the past with Assistant Director Jones and she is here to get an idea of what the Council wants.

Member DiMenco want to propose help for vendors as it relates to getting on-time payments. She said no getting prompt payments have jeopardized some of the businesses we served. She said at the meetings she would like to know where we are and how far we are behind with payments.

Assistant Director Jones confirmed meetings with Ms. Delano and said she was responsive to the concerns he expressed.

Member Doria said one of the things she had discussed with the Comptroller's Office in the past is that it would be helpful to many of the BEP vendors serving as subcontractors to be able to see when checks are made to the prime contractors.

Member Roberts wants to know whether there is a way for the new system that BEP is getting to be linked with the Comptroller's Office so that we know when Primes are paid. She also asked where BEP was with reference to the Compliance Module being implemented.

Secretary Costa said that BEP is still working on having it being implemented. She further said once it is up and running, they would be able to get the information regarding the payment of primes from the Comptroller's Office. She said they are having some technical difficulty getting the information to communicate from the contracting information as well as the payment information. She said the issue is not with the Comptroller's office and that they do not have a date of implementation. Member Roberts asked whether there is a projected timeframe for implementation. Directed McDevitt said they will give member Roberts a projected timeframe.

New member Jorge Perez introduced himself as the Executive Director of HACIA. The Council also recognized the presence of member Eng.

Member Ivory wants to know whether there were any vacancies on the Council. Chair McDevitt said yes, there were 3 vacancies available: 1 statutory for IDOT, and 2 appointees.

- Guest Speaker: Department of Corrections: Gladys Taylor
 - Not present
- Sheltered Market in Advertising Update
 - Chair McDevitt said this issue was discussed and voted on in the previous meeting. He said the CPO is currently reviewing it to see if she has jurisdiction over it. He said she is working with the Legal Council on this issue.
 - Member Roberts said there are JCAR rules that define how the process works and she wants to know where the discrepancy lies. Director McDevitt gave an example of constitutionality.
 - Member Ivory wants to understand why the CPO will have jurisdiction. He thinks it is an over-reach.
 - Member DiMenco reiterated that the amount of energy spent on the advertising contracts which has a low spend is not necessary. She said the total amount of dollars allotted for advertising in the State's overall budget is small. She believes this is where the focus should be – increasing this amount.
 - Member Roberts wants to know if the advertising dollar amount is limited to the 14 million dollars. Assistant Director Jones said the goal of the Advertising Sheltered Market is to increase the spend. Member Roberts agrees with Assistant Director Jones that going forward she expects there to be an increase in the Advertising spend amount.
 - Member Hunt needs clarification on whether the advertising dollars used to create the sheltered market included all state agencies or excluded the universities. Secretary Costa said it was all of the prime contracts in those NIGP codes for FY16 and FY17.
 - Member Hunt wants to know whether there are some advertising spends that are not incorporated into or subjected to the sheltered market. Chair McDevitt said there are some advertising spend out there such as the Lottery that are not subject to the Sheltered Market. He said this was a unique case because it has a manager and it is not a director contract with the State.
 - Member Hunt wants to know whether the 14 million dollars include purchases by the State university system. Chair McDevitt said he does not believe that to be the case. Member Hunt wants to know whether State University System can use the Advertising Sheltered Market. Chair McDevitt said yes. Member Hunt asked whether the same analysis that was done on the advertising spend was done on the State University System advertising spend. Member DiMenco said no. She said the basis of the analysis of the contracts that were awarded over those two years was that one year it went to an Asian business and the other year it went to a Woman owned business. According to her, that analysis, which she finds erroneous, was then used to justify that future contracts should go to African Americans Owned businesses and Hispanic Owned business because of the inequality. She said if the universe is going to get bigger, she does not understand the basis of the Sheltered Market.
 - Member Roberts proposed opening the Sheltered Market to all businesses that fall under the BEP program.
 - Assistant Director Jones explained to the new Council members that there was a Disparity Study that was done in order to justify the Sheltered Market. Member DiMenco pointed out that the information from that Disparity Study was not included in the data that was presented to the Council. Member Roberts said you do not have to when you are trying to declare a Sheltered Market. She said the law said that every BEP Council Meeting they can look at data to see

whether there is a disparity and that is what was done. She said Collette Holt's disparity study is old information.

- Member DiMenco motioned that for the advertising NAIC code, the Council include all those who the Council is supposed to serve at the BEP Council and that the data that should be presented to us should be of the magnitude of the advertising that would be included in the distribution of business thru the Sheltered Market.
 - Chair McDevitt said this issue was voted on at the previous meeting. Member DiMenco said according to her understanding the universe of that business is beyond the 14 million that was talked about. Chair McDevitt proposed looking at the university spend and see whether that change the calculus and report back to the Council next meeting.
 - Member Hunt said there should be some uniform standard set by the Council on how to create Sheltered Market. Chair McDevitt said the Council will develop some policy guideline on the process and review the JCAR Rules and how it intersects with the data and come back and address some of the issues they reflect.
 - Member Roberts wants to know how this will affect the pending Advertising Sheltered Market. Chair McDevitt said if there were to be a procurement by an agency under the purview of the Governor, it would be appropriate because the data we saw was for that. However, he said if DNR wants to make a procurement, it seems like an unlikely scenario before the next meeting. He said that they were going to bring back data to see if they could expand the universe accordingly.
 - Member Ivory said usually when it comes to disparity study, there are over-utilization and under-utilization. He said usually those that have been over-utilized fundamentally do not fit into the program. He said he thinks the data that we have is appropriate and we have voted upon it. He also said he thinks the concerns could be are we headed to a place that is a slippery slope where some people are going to be excluded from the process and I am saying that is not the intent. He said it is geared toward identifying those individuals who have been fundamentally left out and have not participated. He said he is sure some of his colleagues will have such a strong defense as he will have for the other side of the issue. He advised that we should go ahead and let the process carry itself.
 - Member Roberts said since the law said we should discuss sheltered market in every Council meeting, we should do that using categories and data to help us make the decision. She said she would like to have that as a standing item on the agenda.
 - Member DiMenco motioned to have sheltered market put on the agenda for decision at every council meeting. It was seconded by member Doria. Vote taken, Motion passes unanimously.
- Update on vendor/contract concerns
 - Obama Energy/Wesco: Secretary Costa said She, Ben, and Terry met with Obama Energy to get more information about their complaint they had made at the meeting. She said they spoke with folks at IPAC, because it was an IPAC procurement. She said our understanding from IPAC is that they are dissatisfied for several reasons with Wesco as a vendor and they are taking steps to address that.
 - Assistant Director Jones said they invited Wesco to the meeting today, but they could not make it, but they would like to know what goes on at this meeting. He said we can invite them to the next meeting if this is not resolved.
 - Member Roberts recommended that they are called to the next meeting to answer some questions. Assistant Director Jones said he will invite them to the next meeting.

- Member Ivory wants to know if there is a rule that requires vendors to appear before the Council whenever they are invited. He said they have similar rules on the Procurement Policy Board. Assistant Jones he is not aware of any such rules that they have. But he said there is leverage in the sense that the agency that have that contract can advise the vendor that they must be present. Assistant Director Okorafor said she will help in this regard.

➤ Lottery/Camelot

- Member Roberts expressed her concern to the Council that when a goal of about 15 million was established for the Lottery Contract, we missed out on the bigger pie. She said she believes the Lottery contract was for \$280 million and we only put a goal in three categories. She said it was stated that the Lottery contract is a big contract for advertising and she does not think advertising was one of the 3 categories. She said there were over 50 categories, but we only look at 3 categories to put minority goals on. She urged CMS to revisit the contract and look at other categories.
- Member DiMenco said late last week Camelot reached out to one of her colleagues to establish a relationship in order to place large WBEs into their contract. She said their participation in areas that have been identified are very limited.
- Chair McDevitt said advertising is where the dollars are allocated against, but they are spread back over 3 categories. He said they do the math against advertising spend. He said they reached out to Camelot, but they could not attend the meeting as they had a conflict with time, but they did express their willingness to come before the Council in order to give us a better breakdown of where the spend is. He said one of the challenges is that the biggest contracts with respect to dollars are pass-thru that go to one of two vendors: The vendor who does the scratch cards or the vendor that does the draw game. He said a lot of that are proprietary technology and it is not easy for them to break it up as well as security concerns such as computer codes related to lottery jackpots or location for printing of the scratch cards.
- Member Doria wants to know whether it is appropriate for her to meet with Camelot outside of the Council meeting because they have reached out to her for a meeting. Assistant Director Okorafor said Camelot have reached out to CMS, Fair Practice Task Force and other business leaders within the Minority, Women, and Persons with Disabilities business community. She said this is a broad base outreach effort by Camelot to engage the business community in order to make opportunities for as many vendors as possible. She said there is nothing wrong with meeting with them.
- Member Ivory said he agrees with member Roberts that they need to look at the lottery contract for more opportunities for the minority communities.
- Member Roberts reminded the Council that Camelot is only obligated to reach out for 3 categories. She wants to know if the Lottery come before the Council, what do we want from the.
- Chair McDevitt said based on his experience dealing with them, when they come before the Council, they could identify what is the potential for minority participation in the other 27 areas of the contracts, and if not, why not. He said after that, we can identify a path forward. He warned the Council that Camelot is part of a bigger bureaucracy and is owned by Camelot U.K. He advised that with teams of lawyers dealing with each other, it could take a long time.
- Member Ivory believes we can identify other areas of opportunities and talk to Camelot about those areas.
- Harold Mayes, Director of the Lottery, said he does not want to speak for one, but they have indicated “they don’t necessarily have issues with identifying other opportunities”. 1:05:12

- CMS' Budget and Dollars subject to Goal
 - Secretary Costa reminded the Council that during the public testimony at the previous Council Meeting, there were questions relating to why such a small percentage of CMS's budget is subject toward BEP goals. She said the short answer is that Employees' Healthcare Benefit account for a large percentage of CMS' budget.
 - Assistant Director Jones said about 80% of CMS' budget go toward Health benefits and Insurance. State Employer Retirement System and was not subject to BEP. He said those dollars are not subject to BEP goals.

- Tollway Bond Counsel
 - Assistant Director Jones said that this issue was brought up by a vendor, Redacre, at the last Council meeting regarding a procurement that was put up by the Tollway. It was for a Bond Counsel and it did not have a goal. He said they reached out to the Tollway and they were told that the Tollway is unique in the sense that their Legal Representative by law is the State Attorney General. When they acquire legal services, they are called SAG, or Special Attorney General. He said they are very involved in what kind of firms and the kind of work that is required. He said they have invited the Tollway representatives to come and explain the process and answer any questions the Counsel might have.

 - Gustavo Giraldo, Chief of Diversity and Strategic Development for the Tollway and Elizabeth Oplawski, Senior Assistant Attorney General for the Tollway introduced themselves. Assistant Attorney General Oplawski read from a prepared statement. She addressed 3 issues: 1). She said in compliance with the BEP Act, the Tollway look forward to using BEP vendors when it is appropriate. She said even though there is no goal on the contract, the Tollway advertised the contract seeking for minority firms' participation. She said thru this process, the Tollway achieve a diverse pool of minority firms. She said even if you assume the BEP Act here, the timing of raising this question at this time poses a significant problem. The goals have been set and the proposals have been opened and scored. And, the Board have acted and there is no opportunity that a waiver can be sought. 2). Even if the goals have been advertised from the onset, it is anticipated that it would have been allocated 3% goals. She said however by advertising the contract, and specifically seeking participation by minority owned firms, the Tollway have achieved a 33% percentage diverse pool. She said to consider that this contract will have to be canceled in order to set a BEP goal of approximately 3%, the pre-prime contracts that are being awarded to minority and women owned firms will be lost. Secondly, she said under the Counsel agreement for the Tollway, it is different from any other State entity. She said the Act specifically required that in-house and outside Counsels be under the jurisdiction of the State Attorney General. 3). The State Attorney General as a constitutional elected officer is exempt from the Procurement Code and the BEP Act.
 - Member Roberts want to know whenever the Tollway puts out a solicitation for a Bond Counsel, is it a Tollway Contract or the Attorney General contract. Mr. Giraldo said although the Tollway benefit from these contracts, historically, they have always been evaluated, selection made by the Office of the Attorney General, and the process managed by the Office of the Attorney General.

- Utilization Plan and Letter of Intent Update
 - Assistant Director Jones said we are currently undergoing a thorough overhaul of the Utilization Plan and it is going to look a lot different. He also said they are almost done. He said before the next BEP Council Meeting they would be done with the revision and will provide it to the Chief Procurement Officers as well as to the BEP Council to review it. He believes the Council will be pleased with the overhaul.

New Business

- Discussion about Holidays Season Meeting Schedule
 - Member Roberts said she wants the Council to have a meeting preferably at the beginning of December as have been done in the past. She recommended sending out a survey to see the availability of members for a meeting. Chair McDevitt said that will be done.

- Collaboration with Fair Practices in Contracting Task Force
 - Chair McDevitt said he and member Ivory serve are members of the Fair Practices in Contracting Task Force and that the Task Force has extended invitation to members of the BEP Council members to attend their meeting this coming Thursday at 2pm. He encouraged members who have the time to attend the meeting as there are some overlapping functions of both groups.
 - Member Roberts wants to know what the overlapping functions of these groups is.
 - Task Force Member Neal said the Task Force is geared toward addressing the deficient disparity of African Americans in State contract. He said there are some shared concerns of both groups. He said one of the things both groups have in common is the Lottery/Camelot Contract. He said the Task Force has a mandate for each state agency to come before the Task Force with a strategic plan which will be monitored to be compliant with CMS and Task Force. He said they are to produce a report with recommendations on the 1st of the new year. He said the Task Force will sunset on January 2, 2019 and then will become a full Commission. He said it is very important that the Task Force engage the Council so that they can hear about some of the things that they are doing and identify some recommendations that can be put in the report on how we can identify those barriers and those common issues, so we can hopefully move together. He told the Council that the Task Force is specifically focused with issues confronting African Americans which could pose a problem with the Council which is all minority inclusive. He said the purpose of the invite is to sit down and have a conversation and look at shared interest and shared concerns and recommendations on how we can achieve our collective objectives. He said it is important to get together to avoid contention and fighting each other.
 - Task Force Member Montgomery asked whether there are any Council members who will be coming for the meeting on Thursday. Council member Doria said she will be attending the meeting.
 - Member Doria asked where the meeting will be held. Assistant Director Okorafor said the Governor's Office, 16th Floor of JRTC.
 - Task Force member Montgomery reminded the Council that the Task Force has met every week for the last 4 to 6 months and that it is an open meeting. He said the agenda and the minutes are available to everyone.
 - Assistant Director Okorafor informed the Council that the Task Force have received strategic plans from 21 state agencies as well as 6 of 9 of state universities. She said the strategic plans contain data and research on how they have been doing in terms of fulfilling BEP goals. She believes the collaborative effort of both organizations will be beneficial to both. She strongly encouraged BEP Council members to attend the Task Force meeting either by phone or in person. Member Barreto said she will be in another State but will try to attend via phone. Member Ivory said he thinks the Procurement Policy Board can add some value to the Task Force meeting.
 - Task Force member Montgomery welcome any suggestions or recommendations from the public for inclusion the final report of the Task Force.

- Chair McDevitt returned to the draft language dealing with exemptions. He said he cares more about dollars reaching the communities they are supposed to serve.
- Member Hunt said he supports the work being done but wonder about the practical impact on the agencies for trying to get work done during increasing pressure from the BEP Council, the Fair Practices in Contracting Task Force Act, and other changes in the way we have done procurement. He said it has become increasingly hard for agencies to get their procurement done. He said he thinks this should be done and evaluated based on how it will impact the agencies with their procurement.
- Member Roberts is wondering whether the list is leaving out organizations such as the Metropolitan Pier Authority. Assistant Director Jones said the municipal entities are exempted in the Act.
- Vote taken on the draft language of the exemptions and passes unanimously.
- Public/Vendor’s Testimony
 - 1) Charles Harrell II, President & CEO/IT Architect
 - Wants to know the status of the IT Internet Egress RFP that was pulled off the street in 2017
 - 2) Maria Prado, Managing Partner/Padro & Renteria Public Accounting
 - Is protesting the NIGP code that was used by the Department of Aging for the rate study for the community care program. She said the NIGP code that was used is Human Services Consulting when in fact it should be Accounting related.
 - 3) Timothy Watson
 - Supports Ms. Prado assertion

VII. Adjournment

Meeting adjourned at 3:22pm

- Next Subcommittee Meetings
 - Certification Subcommittee Meeting – November 26, 2018
 - Outreach Subcommittee Meeting – November 27, 2018
 - Compliance Subcommittee Meeting – November 28, 2018
- Next Council Mtg. – December 3, 2018

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