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BOARD OF PUBLIC WORKS
GOLDSTEIN TREASURY BUILDING
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ANNAPOLIS, MARYLAND

March 6, 2013

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P R E S E N T

GOVERNOR MARTIN O'MALLEY, Presiding;

HONORABLE PETER FRANCHOT, Comptroller;

HONORABLE NANCY KOPP, Treasurer;

SHEILA C. MCDONALD, Secretary, Board of
Public Works;

ALVIN C. COLLINS, Secretary, Department of
General Services;

T. ELOISE FOSTER, Secretary, Department
of Budget and Management;

DARRELL MOBLEY, Acting Secretary, Department
of Transportation;

EMILY WILSON, Director, Land Acquisition and
Planning, Department of Natural Resources;

ZENITA WICKHAM HURLEY, Special Secretary,
Governor's Office of Minority Affairs;

MARY JO CHILDS, Procurement Advisor, Board
of Public Works; and,

MARION BOSCHERT, Recording Secretary, Board
of Public Works.

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P R O C E E D I N G S

GOVERNOR O'MALLEY: Okay, we are here at the Board of Public Works. And it's March already. Can you believe it?

TREASURER KOPP: It's coming in like a lion?

GOVERNOR O'MALLEY: A lion. So March 6, 2013, we are here at the Treasurer's Office, and the Comptroller's Office, I'm sorry. We're not where we usually are. So Madam Treasurer, do you want to tell us what we're doing today?

TREASURER KOPP: Yeah. Governor, the reason that we're here in the State Treasury Building is that we are going to have a bond sale in about 40 minutes. We are going to the market, as this Board approved a few meetings ago, go to the market for \$500 million, most of which will go for schools, colleges, education, and other, and the rest for other major public facilities. And we are also going to refinance about \$180 million or thereabouts. It has varied from

day to day depending on the vagaries of the market. But we decided that there was a clear enough savings for this amount to go out. And that will gain something like \$6 million for the taxpayers. Not as much as we had hoped, but still \$6 million, a significant sum.

We're going to do that at 11:00. We'll start at about five of eleven. And apropos of that, the person who will be helping to walk us through it is Amber Teitt, who is the Director of Debt Management, as you know. But her deputy, Kina Johnson-Malcolm, who I introduced to you all two weeks ago, and has been the head of Lease Finance for the State for several years now doing many other things as well, and is an integral part of the Debt Management Division, actually has moved to the Department of Transportation. I see the Secretary trying to avoid my eyes. But moved to the Department of Transportation where I know she will do excellently

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well. She was kind enough, actually today was, yesterday was supposed to be her last day. Kina has stayed to help us with this bond sale today. And she'll be in later.

And finally I just want to tell everybody who didn't know there's one person with a bigger smile on his face than anyone else in this room. Steve Vanderbosch is retiring after around 30 years with State service. This is his last Board of Public Works meeting. Steve has been my Chief Counsel, my advisor, on all matters dealing with finance, with the Board, with just about everything, since I became Treasurer in 2002. He has been with the Office of State Treasurer since 2000. And before that with the Port Administration, the MdTA, and serving his nation in uniform. We will miss him very much. He has advised on I don't know how many billions of dollars of sales, and advised correctly. And I'm always on the internet with him asking questions. I probably will continue

to be. I don't know if they will be answered. But Steve has been I know counting down, he doesn't know that I know this, but he has been counting down the days for the last month or so. And at the bottom of his emails to some people, but not to me, in parentheses are the number of days left until the day of retirement. Today is 26 days actually until his retirement. And Susanne pointed out to me that the 26th President was Teddy Roosevelt, who said about leaving the White House, now this is not the White House. It's better in some ways but not all. Teddy Roosevelt said, "I do not believe that anyone else has ever enjoyed the White House as much as I have." And he had a bully pulpit when he was in it. Steve has, I don't know if I would call it a bully pulpit, but has been a great advisor to the State, to its government, and to its taxpayers for many years. And I just want to thank you. I was looking for your son and don't

see him, but thank you, Chris, for sharing your father with us. Steve, thank you.

MR. VANDERBOSCH: Thank you.

(Applause.)

TREASURER KOPP: That's it. We'll get back to the sale. Thanks, Governor.

GOVERNOR O'MALLEY: Okay. Mr. Comptroller?

COMPTROLLER FRANCHOT: Thank you, Governor.

I would, frankly I was hoping for a snow day today. But I will state for the record tomorrow the Treasurer and the Budget Secretary and I and others will be part of that very distinguished panel, the Board of Revenue Estimates. I guarantee you our estimates are more accurate than the weather reports. And thank you all for being here. And I am going to play hookie this afternoon, if it snows, and get out and enjoy Mother Nature. I hope you all have a safe trip. And if you want to say I said take the afternoon off, go ahead.

(Laughter.)

COMPTROLLER FRANCHOT: But Governor, I do want to mention that it's March. And I'm not, I never played basketball but I've got to admit that March Madness is an exciting time. And the big dance, frankly, is there before us in the sports pages. We call this season March Madness in the Comptroller's Office. For us it means we're at the heart of the tax season. And I'm proud to report, Governor and Madam Treasurer, that we're on pace to set an all time record for electronically filed returns, which of course saves the State money. And I emphasize to our citizens, three out of four of whom file electronically, this is the safest, securest way to file your taxes. Because rather than me and my staff sitting in a mountain of mail opening up your return and looking at your return, looking at the check you write, this is all done electronically. And people are really responding to that. And frankly they benefit because folks that file electronically get

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their refunds within three business days if we're allowed to put it back electronically in your bank account. Once again, an increase in security and speed.

And we also have 12 field offices for the Comptroller's Office around the State. Any Maryland citizen regardless of income, status, whatever. If you show up at our branch office we will prepare your State tax return for you, guaranteed accurate. And it's a service we provide to everybody. And it's much appreciated because people don't have to figure out whether they qualify or don't qualify. Simply show up with your federal tax return, we'll do your State return right there. And people like that.

I also encourage Marylanders to visit our website, marylandtaxes.com, which has a lot of interesting and terrific information, and also all the forms. And I also want to be, just indicate to people that I'll be doing an online chat on March 21st to

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answer last minute questions from taxpayers. Because of all of the activity in Washington there's been a big delay as far as the IRS. We have not had any delay whatsoever. We are completely on track moving forward. But people have a lot of questions. So please tell your constituents to communicate with us over the internet, or listen to this online chat.

We're always there to help. I say to folks we're not the Internal Revenue Service. We're not out to harass Marylanders or cause trouble. We want to make this season as easy as possible. And we spend a lot of time creating an environment where Marylanders feel comfortable. And I mention in contrast the IRS, which tends to send a shiver down everyone's back. Our agency is out to serve the people. And so Governor, thank you very much. And I look forward to the Treasurer's meeting here because this is a, obviously a very important event, getting this debt sold.

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GOVERNOR O'MALLEY: All righty.

TREASURER KOPP: Thank you. It's our sale, it's not the Treasurer's sale, but I appreciate it.

COMPTROLLER FRANCHOT: Yeah, well it's, I identify --

TREASURER KOPP: It's the people's sale, the people's sale.

COMPTROLLER FRANCHOT: I identify it with you, Madam Treasurer.

GOVERNOR O'MALLEY: So with that, the Secretary's Agenda. Yes?

SECRETARY MCDONALD: Good morning, Governor, Madam Treasurer, and Mr. Comptroller. We have 19 items on the Secretary's Agenda. We are withdrawing Item 16. Item 1 is the bond sale, which we will hold until 11:00. But we can take questions on the balance of the Agenda.

GOVERNOR O'MALLEY: Any questions on the balance of the Agenda? So what item did we want to talk about here?

COMPTROLLER FRANCHOT: Yes. Item 8?

GOVERNOR O'MALLEY: Item 8?

SECRETARY MCDONALD: That is the, do you want somebody from MDE? Or is it Frostburg? Okay. So this is for the, and MDE, new funding, a loan to Frostburg. But I'm actually not sure if, well you can stand there, but I think --

COMPTROLLER FRANCHOT: I think my question is more playing off the word Frostburg. I just wanted to ask the Budget Secretary, what ever happened to the item two weeks ago for my favorite Division III press box project? Last meeting we were going to award a contract to construct a new press box at the main athletic field at Frostburg State University. It was removed from the Agenda at the last minute due to MBE

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subcontractor issues. And I just want to make sure that hasn't been lost --

MS. FOSTER: I think that was on the Secretary's Agenda.

SECRETARY MCDONALD: It was the University System Agenda. And as luck would have it, today there are no items on the University System Agenda so there is not a representative from the University System here. We have been talking with the University System and they plan to go forward with the Frostburg project. But I believe that the Secretary of Minority Affairs is the one dealing directly with Frostburg University and she might be able to fill you in on details as to when --

COMPTROLLER FRANCHOT: I just want to make sure it's on track after your review, Madam Secretary. And --

MS. WICKHAM-HURLEY: Frostburg has been very good in complying with our requests for information

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and meetings. And so we continue to work with them and we're hopeful to be able to bring it back to the Board shortly.

COMPTROLLER FRANCHOT: Excellent. Thank you very much.

GOVERNOR O'MALLEY: Okay. Any other matters on the Secretary's Agenda?

SECRETARY MCDONALD: No. I think right now there are --

GOVERNOR O'MALLEY: Okay. The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. We will move now to DNR Real Property.

MS. WILSON: Good morning, Governor, Madam Treasurer, Mr. Comptroller. Emily Wilson with

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Department of Natural Resources. We have seven items on our Agenda today. Of particular note is Item 5A, the Trout Run acquisition. This is more than 400 completely forested acres in Frederick County. It will become part of Cunningham Falls State Park. It actually bridges two existing Wildlands. And it's extremely ecologically significant, scoring a 145.

GOVERNOR O'MALLEY: What page is that? I'm sorry.

SECRETARY MCDONALD: It's Item 5A on page

5A. GOVERNOR O'MALLEY: I think I've been here. There are little cabins up there?

MS. WILSON: Yes.

GOVERNOR O'MALLEY: And where FDR and --

MS. WILSON: The cabins are not part of the acquisition. We are just purchasing the land in this acquisition.

GOVERNOR O'MALLEY: Oh, not the cabins?

MS. WILSON: Correct.

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(Laughter.)

GOVERNOR O'MALLEY: The little cabins where FDR and Churchill fished.

MS. WILSON: Correct. We're hopeful to perhaps place an easement on that portion of the property at a future date.

GOVERNOR O'MALLEY: That's a nice little stretch.

MS. WILSON: It's gorgeous.

GOVERNOR O'MALLEY: Okay. Any other questions? The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

MS. WILSON: Thank you.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: And the ayes have it. Thank you. Department of Budget and Management?

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MS. FOSTER: Governor, Madam Treasurer, Mr. Comptroller, good morning. There are ten items on the Department of Budget and Management's Agenda for today. I'll be happy to answer any questions you may have.

GOVERNOR O'MALLEY: Sure. Mr. Comptroller?

COMPTROLLER FRANCHOT: Item 4-S through Item 8-S, I guess?

MS. FOSTER: Mm-hmm.

COMPTROLLER FRANCHOT: Madam Secretary, I'm not sure whether you or the Department of Human Resources wants to field this.

MS. FOSTER: Okay.

COMPTROLLER FRANCHOT: But I noticed on these items there are 63 residential childcare contracts with a variety of service providers from across the State. They are relatively short term extensions but they total over \$35 million. And I was struck by the uniform language that explained the

reason for these delays and it said "the circumstance that contributed to this request for an extension is due to the volume of proposals received which requires additional time to complete the procurement process and award any contracts." So I guess I'm concerned about the logistics of your operation if in fact there are too many bids for these contracts, and so you have to extend them obviously we can't take advantage of whatever competition there is in the bids.

MR. DALLAS: The contracts are for out of home placement for children under DHR supervision. Any given day they serve hundreds of kids across the State. They are all awarded under one RFP process and the reason why we have the same reason for every contract is that this RFP marks a switch for us from traditional cost reimbursement contracts to more performance based contracts. At the request of the providers association and several providers we gave them a little more time to get their responses in

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order and to put their best bid forward that they have. We received over 74 proposals and over 87 questions from vendors as they were trying to deal with the new process and the switch to a more performance based practice. The service range from regular group home care, to kids with special needs, to kids that are medically fragile. We expect to receive the recommendations from the evaluation teams this Friday and we certainly apologize for the delay. But we believe we will have the contracts in place for the start of fiscal year July 1st.

COMPTROLLER FRANCHOT: And how long are the new contracts?

MS. HIERS: The new contracts are for five years.

MR. DALLAS: Five years.

COMPTROLLER FRANCHOT: Excellent. That, I take it, is an improvement over --

MR. DALLAS: Yes.

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COMPTROLLER FRANCHOT: And so you had how many bids for 63 contracts?

MR. DALLAS: We received 74 bids, 74 proposals.

COMPTROLLER FRANCHOT: And the reason, that doesn't sound like a lot for, that sounds like one for each, and two for 11 of them maybe. But am I misreading that?

MR. DALLAS: Well it's, over the last five years there's been a major shift in the number of kids we have in care. It has decreased. We used to have a lot more kids that needed a place to stay and beds to put them in. Now because of changes that have occurred in the department we have a lot more beds than kids. So it's not that there's a guaranteed number of contracts. We need the contracts for the number of beds for kids that we need. So I expect the number of contracts that are awarded will go down overall.

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COMPTROLLER FRANCHOT: Okay. So you are on top of this situation?

MR. DALLAS: Absolutely.

COMPTROLLER FRANCHOT: And with this five-year window, God knows how many of us are around in five years, but we are not going to see this type of delay?

MR. DALLAS: No. This will be the completion of a very long process that's about five years in the making for the department.

COMPTROLLER FRANCHOT: Okay, great. Thank you.

GOVERNOR O'MALLEY: Thank you. Any other questions?

SECRETARY MCDONALD: Governor, we did have a request to speak on one of the items, which is a DHMH item, Item 10. And I believe that Deputy Secretary Thomas Kim can explain the Item 10 to you.

GOVERNOR O'MALLEY: All right.

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MS. FOSTER: The Health Department is here, Governor. Item 10 extends for two years the enrollment broker services contract for the HealthChoice and the Maryland CHIP Program. And Deputy Secretary Kim is here, as well as Chuck Milligan.

MR. KIM: Good morning, Governor, Madam Treasurer, Mr. Comptroller. We would first like to have Deputy Secretary for Health Financing Chuck Milligan to articulate what this procurement is all about. And subsequent to that I would be happy to walk you through the steps that led us to this recommendation before you today.

We also have in attendance Secretary Sharfstein and from the AG's Office Joshua Auerbach.

GOVERNOR O'MALLEY: Okay.

MR. MILLIGAN: Good morning. So we brought the All Star Team, and me.

(Laughter.)

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MR. MILLIGAN: I want to just describe first what the enrollment broker does, the scope of work. They get the eligibility file for all new Medicaid eligibles. So new people come into the Medicaid program and those are individuals who will end up in our HealthChoice managed care program. The enrollment broker gets an electronically record across a data interface of the new eligibles on a daily basis. They then reach out to the new Medicaid beneficiaries and advise them about the managed care organizations they can choose from, and work with those individuals and help them select a managed care organization. And for certain people who don't select within a period of time those individuals get assigned to an MCO and then they can switch later.

The enrollment broker then takes those selections and passes those records to each of the eight MCOs, saying, "Here's your new people that you are responsible for covering." And so there's also

data interfaces then from the enrollment broker directly to each of the MCOs.

Simultaneously then the enrollment broker sends a data interface to our Medicaid payment system, our MMIS, Medicaid Management Information System, that says, "Here are the ten people who are assigned to MCO 1, and the 23 people assigned to MCO 2, by their eligibility characteristics," so that we know who we're paying on behalf of to which MCOs.

And so the enrollment broker sits at the intersection of three critical data interfaces. The eligibility record of the new Medical eligibles; each of the interfaces to the eight now MCOs; and our Medical payment system.

At this time given all of the other major systems in development, including the eligibility system that the Maryland Health Benefit Exchange is putting together that will include Medicaid's expansion, we have a lot of system requirements going

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on, system interface testing, end to end testing to make sure that everybody who comes into the health exchange and Medicaid expansion on January 1st successfully ends up in their managed care organization or insurance carrier, and that we successfully know who to pay.

The department's decision, therefore, to request a two-year extension in the current contract is because the risk of changing that enrollment broker in the middle of all of those data interfaces and payment systems when we've got the new eligibility system coming up soon, and getting tested and designed as we speak; as well as the new Medicaid, the MERP, the new Medicaid MMIS; as well as the fact that we're now adding MCOs this year in anticipation of the expansion, including an MCO we added less than three weeks ago by the name of Riverside; makes it a very significant risk from an IT perspective to change that enrollment broker at this time. So the decision was

made after many discussions, including IT staff, across agencies, that this was a risk that would potentially jeopardize the success of the Medicaid expansion individuals ending up in coverage in an MCO.

So I wanted to give you that context for why the department is recommending that we extend this contract, to not change vendors or do a new procurement where we would be adding new interfaces, new interface testing, new software, and hardware, all of that, at a time when we've got other moving parts that are essential to health reform. And I thank you for your attention.

MR. KIM: So I'd like to draw the Board's attention to a couple timelines here, if I may. These timelines, there are three sets of timelines that are overlaid alongside each other that will highlight some of the points that Deputy Secretary Milligan just articulated. I would like to go through the procurement timeline, the MMIS timeline, and the

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development of the insurance exchange timeline very briefly, then show you where our pressure points really lay.

In the procurement timeline, in September, 2011 the RFP was issued for the enrollment broker. In February of 2012 we were prepared to make an award. There was a bid protest filed at that time. At that time we came to this body to seek an extension of the existing enrollment broker function to the end of this month, 2013. I'll jump to October. Eight months later the Board of Contract Appeals adjudicated the protest in our favor. Subsequent to that we, as Chuck mentioned, made an internal decision to cancel all bids, which is why we are before you today to seek a two-year extension.

The MMIS path, there are a couple of dates here that are relevant. We awarded a \$170 million contract for the new MMIS in March of 2012. In July, that's when the design in earnest really began. And

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December through this month is when we are completing our design. Much of that design does incorporate the existing enrollment broker infrastructure that Chuck just mentioned.

When it comes to the health insurance exchange, a \$67 million contract was awarded in February, 2012 for that new platform. In September of 2012 of that same year the exchange had sought CMS approval of that design. Which again, did include the infrastructure of that existing enrollment broker functionality. We did receive approval from CMS at that time and we are expected to go live in a matter of months for the enrollees, again as Chuck mentioned.

I'd like you to draw your attention to the yellow period here, which we define as the anticipated contract transition period, which would have been from, really from February really reasonably to the end of the summer is when we could have migrated to a new contract. Not necessarily to a new vendor, but to

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a new contract. And it was during that time whereby if there was a new contract in place, a new infrastructure in place, those could have been incorporated in both the MMIS design phase and also the health insurance exchange design phase as well.

Currently as we speak the concrete has been poured for both the designs on both those systems. In February, 2012 we had anticipated adjudication of the protest within a matter of a couple of months, in which case we could have incorporated a new contract into our design. As I mentioned, it did take eight months for the Board to adjudicate the one protest. There have been five or six subsequent protests following the first one, but we just wanted to highlight when the adjudication actually took place for the first protest. So that leads us to our decision to come before you today for a two-year extension.

GOVERNOR O'MALLEY: Okay. Mr. Comptroller?

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COMPTROLLER FRANCHOT: Is Dr. Sharfstein here? Because I've got a --

DR. SHARFSTEIN: Yeah, I'm here.

COMPTROLLER FRANCHOT: Great.

DR. SHARFSTEIN: Sure.

COMPTROLLER FRANCHOT: I don't really have a strong feeling on this proposal. But how much are we, I don't mean to put you on the spot.

DR. SHARFSTEIN: Sure.

COMPTROLLER FRANCHOT: But ballpark, how much are we currently spending on Medicaid? I take it the, we get the federal match, or dollars, and then we put in the State dollars. How much does that total? And how many clients are there?

DR. SHARFSTEIN: Sure. It's about in the ballpark of \$7 billion or \$8 billion, half of which is roughly federal and half of which is State. And we're at about a million Marylanders who are enrolled right now.

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COMPTROLLER FRANCHOT: Okay. And what's it going to be after this new enrollment in Medicaid of a substantial population of newly eligible --

DR. SHARFSTEIN: We expect that it will probably be only about maybe another 150,000 or 200,000 individuals. Because when I say million, we're counting some of the waiver programs. And we've had sort of like a half insurance product that's for primary care for a number of single adults up to about 130 percent of poverty. But they will transition into full Medicaid benefits.

COMPTROLLER FRANCHOT: Mm-hmm.

DR. SHARFSTEIN: So it's not going to be, other states are seeing like double or triple their population. Here it's really going to be in the 15 percent increase range.

COMPTROLLER FRANCHOT: Mm-hmm. And I'm very supportive, obviously, of healthcare access. What keeps me up at night is how we or somebody is going

to pay for it. So my understanding is we're currently spending, between us and the feds, \$9 billion on about 900,000 Marylanders. But let's take your figure \$8 billion.

A month ago I read this big article in the paper from the Institute of Medicine that came out with a report that said one-third of all the procedures that we give ourselves, and I take it we pay for our clients here, one-third of the cost, let's take \$9 billion because you can divide that by three. According to this report, one-third of those were for completely unnecessary procedures. Or, this is what caught my eye, the procedures actually hurt the client. In other words, they get a CT scan when they don't need it, but the radiation damages the individual.

DR. SHARFSTEIN: Sure. Or they find something on the CT scan and do a, that was --

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COMPTROLLER FRANCHOT: Biopsy that's not necessary.

DR. SHARFSTEIN: Right.

COMPTROLLER FRANCHOT: Okay. What are we doing to not only make the system accessible but wring that waste of taxpayers' money --

DR. SHARFSTEIN: Sure.

COMPTROLLER FRANCHOT: -- be it federal or State, out of the system?

DR. SHARFSTEIN: The fundamental thing that we're doing is to try to shift out of fee for service payment in medicine. So when, I apologize if I, I told this, if I told you this story, but you can stop me. I recently met with a, well maybe now it's a few months ago, with the Baltimore Ecumenical Council, with the ministers, I never met with them when I was the City Health Commissioner. And they brought me in to talk about health reform. And in one of the, it was a very serious meeting and they were all dressed

in their forma clerical attire. And one of them asked me why healthcare was so expensive. And I started in a little bit on obesity and tobacco. But I said, "You know, the truth is cardiovascular disease is going down but costs are doing up quite a lot. And it has a lot to do with if you pay people for each thing you get a lot more of them and it's not necessary a line with the value in it." If you keep paying fee for service you can't be surprised if the cost keeps going up and the value doesn't improve. And I wasn't getting a lot of feedback from them. And I said, "It would be as if each of you were paid by the prayer." You know? And at that point there was an uncomfortable silence. And I thought I might have overstepped my bounds and my boss would be hearing from the Baltimore --

COMPTROLLER FRANCHOT: You mean the services would be even longer than the ones I go to?

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DR. SHARFSTEIN: Yeah. Well at that point there was a minister who was sitting across the table from me who was, did not show any, you know, response. You know, he was just looking at me the whole time. He leaned across the table and put his hand on my hand, bowed his head slightly, and said, "Let us pray."

(Laughter.)

DR. SHARFSTEIN: And the truth, true story. That's the problem. How are we trying to shift away from that, where, and there are two major ways. One is on the primary care side. To pay primary care more when the patients do better and there is less cost associated with that. And there are thousands of doctors now enrolled in programs to do that, where they are not just paid by the procedure but they are actually paid if the patients are better and there's less cost used.

And the second major thing, huge thing, that we have a unique ability here, is to refocus the

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hospital labor around the per capita cost instead of the price of each admission. And if we can do that then basically what we're saying is that, you know, we're thinking about hospital expenditures in terms of overall payment. And for example, you know, as an example there are certain hospitals that are in that system now where they get a budget that's irrespective of each service. It's not really fee for service. Some of the rural hospitals. And they are looking now for ways to keep people out of the hospital and keep them healthy. They are not thinking about how do I get more admissions and procedures. And in fact, in Washington County the hospital just took over the school health program. And I said, you know, this is the only hospital, "Why in the world would you want to do this?" And they said, "Well every time a child comes to the emergency room with asthma we now lose money. It used to be we would make money. But under the new incentives we lose money. So we have this

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opportunity to step in. And we're going to be, you know, putting medical records in, and really working to keep the kids healthy from asthma."

So if we can kind of shift around those incentives, and I think to the hospital system's credit they see that this is going to be necessary in the future, that's a large part of our discussions with CMS. So those are the two major things.

We just got a grant from CMS, about \$2.5 million, on the primary care side to take the sort of individuals initiatives that are going on and turn it into something that everybody can benefit from, all the payers can participate in. And in a very exciting way combine the primary care stuff with what we have in terms of the data infrastructure so that, you know, we're the only State, the first State at least, that has all the hospital admissions and ER visits in a real time database. And we're going to do that as a platform for creating maps for communities of where preventable disease is. And have those primary care

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doctors, who are now incentivized to keep their patients healthy, and community health teams based on our regional coalitions, could work together to address the preventable causes of disease.

So those are the two major things. But in one sentence, it's really moving past fee for service which creates the incentives for the things you are talking about.

COMPTROLLER FRANCHOT: So did that Institute of Medicine estimate, admittedly it's an estimate, I think they were using 2008 data. So, you know, these are all logical guesses, I guess. But even, say it's a third, say they are off by two-thirds.

DR. SHARFSTEIN: Right.

COMPTROLLER FRANCHOT: And we are spending a billion dollars unnecessarily, or actually hurting our own citizens with these procedures, do you think we are in a reasonable time going to be able to identify

that through the process that you are talking about?
And eliminate it?

DR. SHARFSTEIN: Yeah, I think the, the
fundamental, it's not so much that there is going to
be someone at the State, you know, looking over, doing
an extra layer of review. I think the fundamental
problem are these, you know, underlying incentives,
and the absence of good data, and those are going to
change fast. If we can get a stronger waiver in
place, and we can really expand, I think the next few
years are going to be a time of huge transformation in
our healthcare system.

COMPTROLLER FRANCHOT: And why under that
scenario would we ever be building private or public
brand new acute care hospitals?

DR. SHARFSTEIN: Well --

COMPTROLLER FRANCHOT: And that's, I'm not
saying --

DR. SHARFSTEIN: Yeah.

COMPTROLLER FRANCHOT: -- bringing up
Prince George's. I'm --

DR. SHARFSTEIN: Yeah.

COMPTROLLER FRANCHOT: Except for that one.

(Laughter.)

COMPTROLLER FRANCHOT: I've also -- yeah,
except for that one. I mean, really, aren't we just
creating institutions that are going to be --

DR. SHARFSTEIN: Healthcare --

COMPTROLLER FRANCHOT: -- bankrupt the day
they open the door?

DR. SHARFSTEIN: Well healthcare is a unique
situation, you know, or somewhat unique in that
capacity can drive demand. You know. And so we, you
know, if you have a huge amount of capacity it tends
to, you know, fill itself.

TREASURER KOPP: Like a highway.

DR. SHARFSTEIN: What's that?

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TREASURER KOPP: Like a highway. When we built 270.

DR. SHARFSTEIN: So maybe you all would know better. But it's certainly true that that's a concern. And I think that one of the interesting things as an example on the Prince George's Hospital project is that when it was originally conceived it was really conceived as just a hospital. I mean, you know, sometimes buildings are so old they need to be replaced. It was originally conceived of as just a hospital. But over the last year we've really reconceptualized it as a hospital plus primary care network.

COMPTROLLER FRANCHOT: Mm-hmm.

DR. SHARFSTEIN: So, because, and that has led to a downsizing of an estimate of the, both, we just had some budgetary estimates, but also just in terms of the actual number of beds that they are thinking about. So I think that probably the days of thinking about it as institutions that just stand

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alone and just wait for people to come to the doors are probably past. That they have to be thinking about, you know, what is the reasonable volume based on what we can accomplish through a big part of a real healthcare system.

COMPTROLLER FRANCHOT: Great. If you could just --

TREASURER KOPP: I apologize --

COMPTROLLER FRANCHOT: Please, yeah.

TREASURER KOPP: We're going to have to interrupt.

COMPTROLLER FRANCHOT: Okay. Fine. I'm --

DR. SHARFSTEIN: No problem.

TREASURER KOPP: Mr. Secretary, just very, very briefly. This is a fascinating line of discussion. I don't want to --

COMPTROLLER FRANCHOT: No, I'm --

TREASURER KOPP: -- jump away from it. But we do have to go through a certain script and then

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have the numbers come up and then we can get back to this. While the screen is being prepared I'd like to move, Governor, Comptroller, don't get comfortable because you'll be back in just a minute. And move that the Board adopt the resolutions before us today concerning the State and local facilities loans of 2013, First Series in particular, move that the Board ratify and approve the preliminary official statement dates February 26, 2013; the summary notice of sale for the 2013 First Series A and B Bonds published on February 20, 2013 in the *Bond Buyer*; and the resolutions the Board adopted on February 6, 2013 concerning the bond sale. Could I have a vote and, a second and a vote on the motion?

COMPTROLLER FRANCHOT: Second.

GOVERNOR O'MALLEY: The Comptroller seconds.
All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

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GOVERNOR O'MALLEY: The ayes have it.

TREASURER KOPP: Okay. Amber, who we mentioned and introduced, she's back briefly, is going to show us the bids as they come in for Series A, which is the new money, construction loan. And then we'll resume, and then in the Debt Management offices, Amber's offices, the Series A bonds will be reviewed by our financial advisor and verified, as will the refunding bonds. And then when that is done we will come back and vote to approve the award.

GOVERNOR O'MALLEY: Okay.

TREASURER KOPP: Could I just point out in case, in case you didn't notice, as I'm sure you did, Maryland has received a AAA bond rating last week from all three rating agencies. Moody's retained a negative outlook on the AAA rating due to Maryland's indirect linkages to the weakened credit profile of the United States government, which was assigned a negative outlook by Moody's on August 2, 2011.

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Maryland and Virginia have been deemed closely linked to the federal government in large part because of our major private sector industries which receive many procurements and contracts from Defense, Health, and other agencies. And we love them.

GOVERNOR O'MALLEY: But they didn't do it to, they didn't put a negative outlook on other states? Like Wyoming?

TREASURER KOPP: New Mexico, I think.

GOVERNOR O'MALLEY: New Mexico? So they did --

TREASURER KOPP: No, we are only talking about the AAA rated states. There are only nine, of which Maryland is one triple AAA rated.

GOVERNOR O'MALLEY: So if --

TREASURER KOPP: And then they are going to be looking at the others depending, they are waiting to see what the folks in Congress can or will do to solve the problems they have created.

GOVERNOR O'MALLEY: It's kind of hard to believe that we'd be negative but somebody with a lower credit rating wouldn't be. Are there --

TREASURER KOPP: Well we are negative, meaning not entirely, watching out for the AAA rating. Those people never earned the AAA rating in the first place.

GOVERNOR O'MALLEY: Right. But I mean if their point is we can't downgrade the national without downgrading the --

TREASURER KOPP: Absolutely.

GOVERNOR O'MALLEY: -- states that make up the United States you would think somebody with a weaker credit rating --

TREASURER KOPP: Their, yeah, well their argument is that no one can be rated higher than the sovereign to which they are closely linked. I would argue, and did argue with them as you know, about it. They are, it's --

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GOVERNOR O'MALLEY: It reminds me --

TREASURER KOPP: It's not entirely rational.

GOVERNOR O'MALLEY: It reminds me of the great story they tell about John Lindsey working late one night and the phone rings. And rather than let it ring and ring and ring he picks up the phone. And a startled constituent says, "Oh, this is actually the Mayor?" He said, "Yes, it is." She said, "Well I was hoping to get someone lower." And he said, "Madam, there is no one lower than the Mayor of Baltimore."

(Laughter.)

TREASURER KOPP: We have some bids, Governor. MS. TEITT: Correct. We had nine registered bidders and we have six bids. And it appears that Citigroup with a bid of 2.333, very close bidding, has the lowest bid. But we will go back and verify that.

GOVERNOR O'MALLEY: Is that good?

TREASURER KOPP: Yeah.

MS. TEITT: Yeah.

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TREASURER KOPP: It's quite good. This is, these are 15, these go out 15 years. I mean, there's one year, two year, three year. So people who want to buy a bond that's only, say, two years in duration should not be surprised when they receive a very good investment, very conservative but not a whole lot of yield. But this is very good.

COMPTROLLER FRANCHOT: Well I identify the bonds with you, Madam Treasurer. You do such a great job --

TREASURER KOPP: Very conservative and not a lot of yield.

COMPTROLLER FRANCHOT: -- almost free money for the State. Take credit.

TREASURER KOPP: It's also interesting, though, how close they are together. I think that's because they are all so low that there's not a lot of space between them. From 2.33 to 2.40. Okay. So --

MS. TEITT: We'll be back shortly.

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TREASURER KOPP: Thank you.

GOVERNOR O'MALLEY: We don't need to do anything? No approvals?

TREASURER KOPP: We'll be, when she comes back.

GOVERNOR O'MALLEY: Okay. Shall we resume our originally scheduled programming?

COMPTROLLER FRANCHOT: Well, not for my sake. Dr. Sharfstein, if you could just send us perhaps a copy of that Institute of Medicine study and your thoughts on it?

DR. SHARFSTEIN: Sure. Sure.

COMPTROLLER FRANCHOT: Because my concern is that we bring in all these new clients, which is great. People deserve healthcare. The costs continue to go up under the old paradigm. And we'll be back here with 1.2 million citizens, playing \$10 billion or \$11 billion or more. I understanding exactly what you were saying. But maybe you could put a time frame in where we could --

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DR. SHARFSTEIN: Sure.

COMPTROLLER FRANCHOT: -- begin to see some fiscal consequences that are positive.

DR. SHARFSTEIN: Okay.

COMPTROLLER FRANCHOT: Thank you.

GOVERNOR O'MALLEY: Okay. So Mr. Dashiell?

SECRETARY MCDONALD: So Mr. Dashiell is opposed to the recommendation.

MR. DASHIELL: Good morning, Governor, Mr. Comptroller, and Treasurer. I represent, my name is Robert Dashiell. I represent Automated Health Systems, AHS. If you recall, you may not recall actually, not too long ago AHS was the firm that was identified by the department as to whom an award should be made on the basis that its proposal was in the best interest of the State. PSI, the company who would have, the incumbent whose contract would have been extended for a total of 45 months if this Board approves the recommendation, didn't make the cut in

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that round because they failed even to demonstrate any modicum of compliance with the contract's requirements for MBE participation. Which is quite astonishing in as much as presumably they are in compliance today as the incumbent. I mean, it seems that all they had to do was just carry forward the same firms and they could have complied, but they didn't.

In any event, we're here today. I was happy to say Deputy Secretary Kim's timeline because it does help me to focus and hopefully it would allow the Board to focus a little bit about on what I'm about to say. In October of 2012 Deputy Secretary Kim testified before the Maryland Board of Contract Appeals that it was absolutely necessary then and at that time to award to my client. That was in October of 2012. The interesting thing is what the department has done since then.

Now you are told that the reason for this two-year extension is to avoid risk. Well this is a competitively bid contract and that has certain

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requirements. And one of course is that any extension be within the term of the contract. In other words, it has to be within the base term or within any contract contained extensions. This contract with PSI was originally awarded in August of 2005 and had three one-year extensions, which took it all the way to 2011. Legally that's the end of the ball game.

Legally based upon the BioGrow decision, based upon this Board's advisory opinion in 1998, with again two exceptions, or a few exceptions. One of the exceptions, and I think the one that the department is trying to massage this request in today is that the extension is necessary to defer the transition to a new vendor to avoid the risk attended to award the contract to a different vendor. Well with all due respect to members of the Board, avoiding the risk of awarding the contract to a new vendor would undermine the entire competitive bidding process. Because what that really says is, "I'm comfortable with the

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contractor we have and I want to continue with the contractor we have." And no matter what, notwithstanding the fact that we're required to competitively bid, I prefer to continue with the contractor we have. Well if that's the case you might as well throw competitive bidding out the window and keep renewing contracts for every incumbent. In fact, that's what we did until the BioGrow court said you can't do that anymore.

What the department didn't do here was come back after the Board of Contract Appeals denied PSI's protest. They didn't come back to this Board and say, "It is in the State's best interest to go ahead with the award to AHS." Instead they waited two months to December, cancelled the solicitation, and now come back and want in my opinion to ask this Board to award what would amount to an illegal extension to the incumbent. Now that's just wrong. That's just plain out wrong.

What I'm asking the Board to do is what the department should have done back in October when MSBCA first denied PSI's protest, which is to award the contract. Now in this case you've got to do something before that. I'm asking you to have the department reinstate the RFP that was cancelled. I'm asking to, based on our grievance, to reinstate the recommendation for award to my client because it was found then, and it still is, most advantageous to the State. Not the least of which is, among other things that I've said, it will save the State \$3.4 million over the next two years. \$3.4 million. The price that the State would pay to my client over the next two years would be \$3.4 million less than the amount that it would pay to PSI under the extension.

Now I can't add to that. If that doesn't get you, if that doesn't sell you, then at a very minimum you ought to put a kick out clause in the extension that says if all of these other bogus

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protests that are coming, pending, that this extension ought to terminate, you know, immediately or 30 days after the Board of Contract Appeals rules upon these bogus extensions. And I say bogus. Let me say this. And this is not, you know, I like the Board of Contract Appeals. I really do. Even though they did something in another case of mine that's unprecedented. But generally I like them. They are good people. They do a good job, okay?

Look. We in this State do everything possible to give a protester a fair shake. And that is really, fundamentally, that's the core of our procurement system. The notion that you don't award a contract until a protest has been resolved is the, it's the core of our system. However, that can be abused by any incumbent. And it has been abused. Because there's no downside. There's no downside to me filing a protest. I don't lose anything. I mean, I may pay a couple of dollars to attorneys fees, but it's cheap, anyway. You know? So I pay a couple of

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dollars in attorneys fees, I file a protest. This Board nine out of ten times, the department does not come to this Board and ask that it be awarded in the face of a protest because I suppose they are fearful that the Board might say no. But there are times such as this when that was exactly the appropriate thing to do. That was what you should have done if you want to avoid the risk. Not illegally extend the contract for the fourth time with an incumbent who didn't even make the cut in the RFP. And a total of 45 months. The original contract was only 36.

If you do it, if you do it over my objection, at least put a kick out clause in it. At least make sure that it terminates immediately or no later than 30 days after the Board resolves this latest round of protests. Please. That's all I have to say. Thank you.

GOVERNOR O'MALLEY: Thank you, Mr. Dashiell.
How about Mr. Auerbach? Josh?

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MR. AUERBACH: Thank you, Governor. My name is Joshua Auerbach. I'm Principal Counsel to the Department of Health and Mental Hygiene. When I think about really the thousands of hours of work that my colleagues and clients and DHMH and the Office of the Attorney General have put into this procurement, I think about a line I learned in AP English in high school and Dr. De Nerville's class, it's a line from *King Lear*. "As flies to wanton boys are we to the gods."

In this case our system allowed for the essentially unlimited submission of protests. And my colleagues and I in DHMH procurement have spent a year responding to arguments like the one you just heard. The BioGrow case, if I could just say it bluntly, has nothing to do with this situation. The BioGrow case, in BioGrow the Court of Appeals held that contract provisions that allow for open ended extension of contracts with prices that we negotiate at the time of

extension are impermissible. That's not the situation here.

What's presented here is the department's request to extend the contract to avoid, the core risk that the department seeks to avoid is 100,000 or more people newly eligible for Medicaid seeking to enroll in the program and no being able to enroll in an MCO because of a system failure. And Mr. Dashiell cites no law whatsoever that precludes this Board from allowing, approving an extension under those circumstances.

COMPTROLLER FRANCHOT: Well now I'm totally confused. Because we all love the Board of Contract Appeals, I think, Governor.

GOVERNOR O'MALLEY: True.

COMPTROLLER FRANCHOT: And so the, as I understand it, PSI was the incumbent?

MR. AUERBACH: Correct.

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COMPTROLLER FRANCHOT: They were not picked in the, from the RFP. And they protested. And their protest was denied.

MR. AUERBACH: Correct.

COMPTROLLER FRANCHOT: Are you saying now that they can just continue to bring in protests on top of that, valid or not?

MR. AUERBACH: As of December when the department decided to cancel the procurement there were three additiona, PSI and Maximus, during the course of this PSI and the number three bidder became one company. And between the two companies, four additional bid protests were filed in the fall of this past year.

COMPTROLLER FRANCHOT: Well --

MR. AUERBACH: They were denied three appeals from those denials before a bid protest were pending at the Board of Contract Appeals.

COMPTROLLER FRANCHOT: And doesn't the Board of Contract Appeals have some process where they can

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indicate to the parties all of your complaints and protests have to be put forward at a reasonable point so they can all be decided?

MR. AUERBACH: There are issues of time limits. Those were among the grounds that the department cited in denying the protest.

COMPTROLLER FRANCHOT: The Board of Contract Appeals? For the --

MR. AUERBACH: In the bid protests themselves --

COMPTROLLER FRANCHOT: That's the incumbent. Okay. So, but then what we're being ask to do today is essentially give it to PSI. Right? Or not? Am I right on that?

MR. AUERBACH: Correct.

COMPTROLLER FRANCHOT: So aren't we just rewarding insufferable behavior?

MR. AUERBACH: Well what we're doing is ensuring successful implementation of health reform.

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And ensuring that people who need access to healthcare are able to get it. As it happens, continuing with the PSI contract is the way to ensure that that occurs.

COMPTROLLER FRANCHOT: Well I can appreciate that. But it looks like we're condoning, giving the Good Housekeeping Seal of Approval to people that we find deplorable. I know the Governor has this oddly named hot wash operation underway. But why wouldn't the Board of Contract Appeals simply say to the parties, "This is it. You get to appeal. And whatever it is you are appealing, and we're going to resolve it." And they did resolve it, I take it, in October, 2012.

MR. AUERBACH: They did, in DHMH's favor, the first protest. And there were three more to go. And by October, by October discussions were ongoing about whether this transition would be feasible during the initial phases of health reform.

COMPTROLLER FRANCHOT: So all four were put in before the Board at the same time?

MR. AUERBACH: Not the, in the fall, the additional four were in the Fall of 2012.

COMPTROLLER FRANCHOT: After the hearings had begun? In September of 2012?

MR. AUERBACH: Around the time of the hearings.

COMPTROLLER FRANCHOT: Well, I mean, this is, I'm all for Dr. Sharfstein's operation. But I don't think the, my impression is that we're just approving behavior which is, you know, something that all of us, whether we like the Board of Contract Appeals or not, find deplorable.

MR. AUERBACH: Well I, the request, if I may put it this way, the request does not include a request for a Seal of Approval. It is a request to extend the contract because of the circumstances under which we find ourselves.

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COMPTROLLER FRANCHOT: No. I hate to see you or the State with a gun to its head based on legal strategies that everybody, whatever side you are on, everybody has a right to due process but not to endless due process. I'm not real sympathetic to being asked to vote for this. And I don't know anything about this. This is the first time I've heard about it. It, I mean, how would anybody not string out the process as long as possible under this kind of, particular contract? I mean, it's not \$150 million. What is it for? How much? How many million?

MR. AUERBACH: The bids on the procurement that has been cancelled were in the \$20 million range, \$20 million to \$25 million.

COMPTROLLER FRANCHOT: And you are going to extend it for two years at what price? \$20 million?

MR. AUERBACH: As I recall it's \$14 million.

MR. MILLIGAN: \$14.8 million.

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COMPTROLLER FRANCHOT: For both years? Or each year?

MR. AUERBACH: For two years. For the total, over two years.

MR. MILLIGAN: Three years.

COMPTROLLER FRANCHOT: But still, it's almost \$15 million. I mean, I'm someone who has always stuck up for not awarding bids in the face of a protest. But this strikes me as the opposite.

DR. SHARFSTEIN: Mr. Comptroller, just, I want to, I do want to, I want to agree with you that the way we got to today was not the department's preference. I can completely understand why it appears that the process has been abused. But at this stage we have no alternative without significantly risking enrollment of individuals into healthcare by taking on a chance of switching out vendors. And so I do think that if we wanted to kind of do, you know, a postmortem on how we got to today, I think, I do, I

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sort of stepped forward right now to convey to you that many people at the department share your, share your sense of frustration that the process allowed for this to occur. But I am here to tell you that in the judgment of every policy and operational and programmatic professional at the department, at the exchange, at the vendors building the new eligibility system, we cannot bear the risk of changing vendors at this time. And so that's, we are where we are. And whatever, however meritorious or non-meritorious some of the protests may have been, we cannot take that risk for the beneficiaries of this program at this time.

COMPTROLLER FRANCHOT: What about the kick out clause that was mentioned? I have no idea what that is. But --

DR. SHARFSTEIN: So I think what is being proposed to propose a short term extension, allow the other appeals to run their course, and then terminate on that basis. I think that's what I heard. But we

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cannot change vendors three months from now, six months from now, because we're going through very intensive testing of all of these systems as the health benefit exchange IT system comes online to enroll all of these new eligibles with all of the new coding to comply with the federal ACA requirements and the new rights that CMS continues to issue as recently as last week, and as anticipated for Medicaid eligibility next week.

So I do want to, you know, affirm that many in the department share your view. But in some ways that isn't the basis by which we recommend the Board make a decision today.

MR. DASHIELL: If I may I want to, Robert Dashiell again, I just want to respond to a couple of things. Number one, the only reason the Board of Contract Appeals hasn't already ruled on the subsequent protests is because of what the department did. The department cancelled the solicitation and

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didn't move to dismiss the pending appeals. They would have, by now the Board would have gotten rid of all of these protests, probably. But when they cancelled the solicitation, that took the jurisdiction away from the Board of Contract Appeals. So the Board of Contract Appeals is not the problem.

And I repeat. I believe that the risk is real. But the law simply is the law. You can't keep creating a desert and calling it peace. The fact of the matter is the contract had a term, its term was over, it was extended three times already, and the law says that you simply can't do it except under very narrow circumstances. And you can't manipulate the facts and sit back and allow time to do for you that which you should have done, which was act in the best interests of the State at the time when action was required.

That's all. So yes. If you approve the extension, which I hope you don't. But at least with the kick out clause would say, well actually, you know

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what? Oddly enough, yes, the kick out clause would say that 30 days after the Board of Contract Appeals renders a final decision on the pending appeals then, and the appeal that's pending now is whether or not the decision to reject, the cancellation of the bids was appropriate. Thirty days after they render that decision that the contract, if they rule in my client's favor that is, that this contract would terminate. And that is what I mean when I say kick out clause. And at a minimum I would ask the Board to consider having the staff include that in the language of the extension if you approve it. Thank you.

COMPTROLLER FRANCHOT: If I could just ask a final question of the department? Thank you, Mr. Dashiell. Someone from the department? Maybe the attorney? Who --

GOVERNOR O'MALLEY: Josh Auerbach --

COMPTROLLER FRANCHOT: How do you expect the department to work with this, the incumbent company,

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after they obviously are, well maybe I should ask the department this. You're not going to be involved in the day to day stuff. But I mean, what about the ethics of a company that uses the process, I take it everybody does to a certain extent, but this is like a poster child for an abuse of the system, gaming the system to get a contract for \$15 million, or \$14.8 million, when the winning bidder some time ago was \$3 million, or less than that. How do you work with a company like that?

DR. SHARFSTEIN: Mr. Comptroller, it's a good question. And I will just share that from our experience the program staff and the operational staff at PSI has completely met our expectations and fulfilled our requirements, including bringing on board, as I mentioned earlier, a new MCO effective February 15th. Riverside Health began operations February 15th as the eighth MCO of our program, which required extensive testing of all these interfaces I mentioned in January. And PSI extended itself to do

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that. They have met every performance measure we have. And so I do think that there is a little bit of a difference within the department's perspective on the staff who are the project managers and program managers at PSI meeting our expectations and meeting our metrics and deliverables, from behavior in terms of the protest that some of us also find frustrating. We have not seen that in their performance.

COMPTROLLER FRANCHOT: They ought to put you on the all star team for just controlling your emotions.

DR. SHARFSTEIN: Thank you, Mr. Comptroller.

COMPTROLLER FRANCHOT: Thank you, Governor.

GOVERNOR O'MALLEY: Thank you. Yes, sir?

MR. ANDREWS: May I be heard just for a moment? Philip Andres, I'm a lawyer for PSI. And there is weather outside. I will be very brief. I simply want to respond to a couple of comments here. I was sitting in the back, so maybe I misheard. But

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actually the first offeror to whom contract recommendation was made was PSI, not AHS. PSI had the highest ranked technical proposal and the best financial proposal. And issue arose after that recommendation regarding a partial waiver on an MBE issue. And when that was not resolved to PSI's satisfaction it did what I know the Board has seen lots of offerors do, it protested. And as the Board well knows it has full power to award contracts in the face of a protest, and I know the Comptroller has not been in favor of that all the time. But in the last year I've seen it happen twice to clients of mine, one on one side and one on the other. My point simply is the contract performance of PSI has been excellent.

There were no games here. In fact, the only current protest right now is a protest filed by AHS. But ultimately this Board has the ability to control the process. I simply wanted to speak up for PSI because they were ranked first technically and financially, and in fact have done some price cutting

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to try to make an equivalent contract here going forward. Thank you very much for your attention.

GOVERNOR O'MALLEY: How about our counsel to the Board? Do we have the power to reject this RFP? Is there anything legally that stands in our way of doing that?

MR. BEDWARD: Yes, sir. Greg Bedward, Counsel to the Board. Good morning. Mary Jo and I have looked at this issue and the Board would be permitted to extend the contract as requested by DHMH. And there are also other options available to DHMH should the Board decide not to accept its recommendation. That would be to award a sole source contract or an emergency contract given the circumstances that they have described this morning.

GOVERNOR O'MALLEY: Right.

MR. BEDWARD: But the Board certainly is within its discretion to award this contract.

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GOVERNOR O'MALLEY: So actually it's not the rejection, it's not the, DHMH already cancelled the RFP. And we're just here to approve the continuation of this contract given the time frame here and the implementation of the Affordable Care Act. Okay. Any other questions on this? All right. The Treasurer moves approval, seconded by the Comptroller?

COMPTROLLER FRANCHOT: Very reluctantly.

GOVERNOR O'MALLEY: All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it.

TREASURER KOPP: Governor, let me say lest there be any confusion, I think, as I said earlier this morning, this is a very miserable tale of procurement process. But I think due to the unexpected, but to me very good enactment of so called

Obamacare, and the fact that Maryland is leading the

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pack in good, sound, prudent implementation, and the fact that I am persuaded by those who actually are responsible for doing this that it's necessary to go forward, I was satisfied to make the motion.

GOVERNOR O'MALLEY: Thank you, Madam Treasurer. May I ask Peggy Watson, Ms. Watson?

MS. WATSON: Yes?

GOVERNOR O'MALLEY: What is the entomology of the term hot wash?

(Laughter.)

MS. WATSON: Perhaps the --

GOVERNOR O'MALLEY: I think you need to come to the --

(Laughter.)

GOVERNOR O'MALLEY: Perhaps the procurement advisor wants to come to the podium and explain to us? Introduce yourself to the record because I think this is a lesson that needs to be recorded.

MS. CHILDS: Good morning, members of the Board. Mary Jo Childs, Procurement Advisor to the Board of Public Works.

GOVERNOR O'MALLEY: Was it you that oddly named the process hot wash?

MS. CHILDS: Well I think it, the actually very apt term came from you, Governor.

(Laughter.)

MS. CHILDS: But it explains a, just a component of what we are doing. The Governor suggested that agencies immediately go back and look at their processes and see what they could do quickly. In other words, something that they could keep on moving but keep making improvements. That's where the term hot wash came from. But the more expansive review that we're doing as well under the Governor's direction is the procurement improvement review. And that's where the consultant is coming in and doing more extensive research and data analysis and looking at everything we're doing from top to bottom. So

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there are two components to this, a hot wash and a more extensive procurement improvement review.

GOVERNOR O'MALLEY: I just want to state for the record that I never, ever came up with the term hot wash.

(Laughter.)

GOVERNOR O'MALLEY: I have no idea what the hell a hot wash is.

(Laughter.)

GOVERNOR O'MALLEY: And so, you know, I just want that to be perfectly clear. Hot wash did not come from me.

COMPTROLLER FRANCHOT: It's going to have to join sequester, I think.

GOVERNOR O'MALLEY: Ms. McDonald, do you want to bring your --

SECRETARY MCDONALD: The term hot wash comes from United States Army. And it comes from the practice used by some soldiers of dousing their

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weapons in extremely hot water as a means of removing grit and residue after firing. And so what it means is everybody coming together to --

GOVERNOR O'MALLEY: Remove grit and residue?

SECRETARY MCDONALD: To, yes --

(Laughter.)

SECRETARY MCDONALD: So a hot wash is the after action discussions and evaluations of an agency's performance following an exercise, training session, or major event such as Hurricane Katrina. And I guess that's when it was done, is everybody came, the agencies all come together and see exactly what they are doing wash it off, and remove the grit and residue, and decide how to handle it better next time. But we have aptly named this procurement the procurement improvement review. That's what we're calling it. But at the first meeting when it was discussed at the Board the term hot wash came up. So as a colloquial reference we sometimes do call it the

hot wash. But it's a U.S. Army, it's a military term. Army and Coast Guard.

I would, I do believe that the Debt Manager is here to confirm the bond sale, but I wonder if you could quickly affirm the rest of the DBM Agenda? Because I believe that that motion was just on Item 10-S. I just don't want to forget the whole rest of the DBM Agenda.

GOVERNOR O'MALLEY: And on this whole hot wash issue I find myself oddly agreeing with the Comptroller.

SECRETARY MCDONALD: We will banish the hot wash.

TREASURER KOPP: You know this is so interesting, Governor. Because some of us remember certain moments in time, where we were when, and I remember the first time I ever heard the term hot wash. I asked you then what you meant --

(Laughter.)

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GOVERNOR O'MALLEY: I deny. I deny, deny, deny. I must have been reading from some staff prepared notes. I don't remember that at all. All right. So there is a motion to approve --

MS. FOSTER: Approve the DBM Agenda.

GOVERNOR O'MALLEY: -- the Department of Budget and Management Agenda items. The remaining Department, we have already approved Item 10, right?

MS. FOSTER: Yes.

GOVERNOR O'MALLEY: The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. And now we return to our bond sale.

TREASURER KOPP: Yes, thank you, Governor. We have had people look at verify the numbers

regarding the Series A award. And I would move that

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Citigroup Global Markets, Inc. be declared the successful bidder for the First Series A Tax Exempt Bonds in the aggregate principal amount of \$500 million, with a net premium of \$79,378,441.30, and a true interest cost of 2.333418 percent; and further move that the First Series A Bonds be issued in the amounts and maturities, and at the interest rates and prices set forth in the successful bid for the bonds.

GOVERNOR O'MALLEY: So moved, seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it.

TREASURER KOPP: Thank you.

GOVERNOR O'MALLEY: Is that all we need to do?

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TREASURER KOPP: No we have one other, Governor. I move that J.P. Morgan Securities, LLC be declared the successful bidder for the First Series B Tax Exempt Refunding Bonds in the aggregate principal amount of \$180,575,000, subject to resizing as provided in the revised official notice of sale, with a sale premium of \$35,506,925.96, and a true interest cost of 1.076178 percent; and I further move that the First Series B Bonds be issued in the resized amounts and in the maturities and at the interest rates set forth in the successful bid for the bonds.

GOVERNOR O'MALLEY: The Treasurer moves approval, seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it.

COMPTROLLER FRANCHOT: I will go back to my earlier comment, the Treasurer has somehow managed to

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find free money for the taxpayers of Maryland. And I salute you, Madam Treasurer, for this particular number up there. Which is pretty remarkable.

TREASURER KOPP: It is. It's a reflection of the market and the high premium placed on Maryland bonds, good solid investments. I think it adds up to \$115 million, or thereabouts, Madam Secretary.

MS. FOSTER: Thank you.

GOVERNOR O'MALLEY: We'll look forward to the front page article in the *Washington Post*.

TREASURER KOPP: Right.

GOVERNOR O'MALLEY: Just kidding.

TREASURER KOPP: Oh, sorry. I beg your pardon. Forgive me. Finally, I move that the Board authorize and approve the issuance of the final official statement for the bonds.

GOVERNOR O'MALLEY: Seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

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GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it.

TREASURER KOPP: See it's very, I try to surround myself with people much wiser than I. I appreciate it, thank you. Thank you, Steve.

GOVERNOR O'MALLEY: Moving on? There are no items from the University System of Maryland today. We move to the Department of Information Technology. Mr. Secretary?

MR. SCHLANGER: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, Elliot Schlanger, Department of Information Technology. This morning we have four items on our Agenda and I'd be happy to answer any questions at this time.

GOVERNOR O'MALLEY: Any questions, Department of Information Technology? The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

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THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. Thank you. Thank you, Mr. Schlanger. We move on to the Department of Transportation.

MR. MOBLEY: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, Acting Secretary Darrell Mobley representing MDOT. MDOT is presenting four items for approval. We'd be happy to answer any questions that you may have.

GOVERNOR O'MALLEY: Any questions? The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. We move on now to the Department of General Services.

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MR. COLLINS: Thank you, Governor. Good morning, Governor, Madam Treasurer, Mr. Comptroller. Al Collins, Secretary of the Department of General Services. We have 16 items on our Agenda, including one supplemental. We are withdrawing Item 2. And I'd be glad to answer any questions you have at this time on the remaining items.

GOVERNOR O'MALLEY: Any questions? The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. And that concludes our department, I mean our Agenda for the Board of Public Works today. Thank you. It's always fun being in the Treasury Building.

(Whereupon, at 11:35 a.m., the meeting was concluded.)