

June 1, 2011

STATE OF MARYLAND  
BOARD OF PUBLIC WORKS  
GOVERNOR'S RECEPTION ROOM  
SECOND FLOOR, STATE HOUSE  
ANNAPOLIS, MARYLAND

June 1, 2011

10:10 a.m.

HUNT REPORTING COMPANY  
Court Reporting and Litigation Support  
Serving Maryland, Washington, and Virginia  
410-766-HUNT (4868)  
1-800-950-DEPO (3376)

P R E S E N T

LIEUTENANT GOVERNOR ANTHONY BROWN,  
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;

BEVERLEY SWAIM-STALEY, Secretary,  
Department of Transportation;

MEREDITH LATHBURY, Land Acquisition and  
Planning, Department of Natural Resources;

LUWANDA JENKINS, 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.

C O N T E N T S

<u>Subject</u>	<u>Agenda</u>	<u>Witness</u>	<u>Page</u>
Contract for 10, Airport Taxicab Concession at BWI Marshall	DOT  Item 8-GM, p. 19	Beverley Swaim-Staley  Paul Wiedefeld Sheila McDonald Dana Reed Farouq Massoud Harold Brazil Mary Jo Childs Janice Salzman Bishop Robinson Neal Janey John Singleton Samson Yemenu Mark Joseph	132
SEC Agenda	SEC	Sheila McDonald	115
POS Agenda	POS	Meredith Lathbury	115
Administrative Services Organization for State Public Mental Health System	DBM Item 6-S-OPTION, p. 30B	T. Eloise Foster Thomas Kim	116
Extension of Contract for Medical Care Services for DPSCS	DBM Item 11-S-MOD, p. 49B	T. Eloise Foster Thomas Sullivan	120
Extension of Contract for Mental Health Services for DPSCS	DBM Item 12-S-MOD, p. 54B	T. Eloise Foster Thomas Sullivan	120

<u>Subject</u>	<u>Agenda</u>	<u>Witness</u>	<u>Page</u>
Extension of Contract for Utilization Management Services for DPSCS	DBM Item 13-S-MOD, p. 59B	T. Eloise Foster Thomas Sullivan	120
Extension of Contract for Inmate Pharmacy Program for DPSCS	DBM Item 14-S-MOD, p. 64B	T. Eloise Foster Thomas Sullivan	120
Contracts for Residential and Non-Residential Services for Youth Before the Juvenile Courts	DBM Item 4-S, p. 13B	T. Eloise Foster	126
Maryland Regional Greenhouse Gas Initiative Services Contract	DBM Item 10-S-OPTION, p. 45B	T. Eloise Foster Terri Wilson	126
USM Agenda	USM	Jim Stirling	129
DoIT Agenda	DoIT	Elliot Schlanger	129
DGS Agenda	DGS	Al Collins	130
DOT Agenda	DOT	Beverley Swaim -Staley	134

P R O C E E D I N G S

LIEUTENANT GOVERNOR BROWN: Good morning, everyone. I want to welcome you to the June 1st meeting of the Board of Public Works. I'm Anthony Brown, your Lieutenant Governor. And I am presiding today in the absence of Governor O'Malley, who is leading a sixty-eight member delegation on a mission to Asia including China, Korea, and Vietnam. It's an economic development mission where we are pursuing job creation opportunities, foreign direct investment opportunities in Maryland, and an assortment of other activities. So we certainly wish the Governor and that delegation the best and that they come back and will be able to report favorably on that mission. And with that let me welcome everyone to the Board of Public Works meeting, and let me turn it over to the Treasurer for any opening remarks you may have.

TREASURER KOPP: Thank you. Good morning. Many of us, just an aside, many of us had the pleasure of meeting the new President of the University of Maryland College Park a couple of meetings ago, Wallace Loh who was just sworn in. And who is, as I

understand it, back in his native country of China which he left when he was a baby, helping lead the businessmen and women and government figures around. And I think it's a great team, academia, research, and business, and government.

Now we have a very busy and very interesting calendar today. The Comptroller will be happy to know that I have been all around the State in the last couple of weeks, but I love it so much I can't choose one part --

(Laughter)

COMPTROLLER FRANCHOT: Excellent.

TREASURER KOPP: Thank you.

LIEUTENANT GOVERNOR BROWN: Mr. Comptroller?

TREASURER KOPP: This is a great thing. You can go to meetings and not carry huge amounts of paper with you all over, and lose them, and get them mixed up.

LIEUTENANT GOVERNOR BROWN: So what's this, then?

TREASURER KOPP: This is a huge amount of paper. We're waiting for this all to be --

LIEUTENANT GOVERNOR BROWN: Mr. Comptroller?

COMPTROLLER FRANCHOT: Thank you, Governor.

It's a pleasure to have you here with us. And I just wanted to wish everyone, particularly you, a Happy Memorial Day. And frankly when, as a veteran, I remember so many fond memories of, you know, it's odd to say about boot camp and all the relationships that you form when you are in the military. And you, obviously, had a much more distinguished service than I did. You know, well we're lucky that we can share the day with our family and reflect on those that sacrificed for our country. And it's a sad day but it's also a day that brings back some of these memories.

I did think on Memorial Day about the fact that it's not just the military that sacrificed but also our law enforcement officers. And a little over a week ago the tragic death of Maryland State Trooper Shaft Hunter caught all, obviously, all of our sympathies and attention. He was killed while pursuing a speeding motorcyclist on Route 95.

I know I speak for all Marylanders when I express my sorrow and condolences to his family, especially his wife and six children. Our thoughts and prayers are with them during this difficult time. And frankly, just reinforces my admiration for the courage of those city, county, and State law enforcement officers who put their lives on the line every day that they report for duty. And for the families who must live in a constant state of worry for their loved ones.

Trooper Hunter's dedicated service will never be forgotten and neither should the commitment and bravery shown every day by his law enforcement colleagues. And Governor, I for one am grateful for their service and commitment to our State, as I know you and the Treasurer are. And it's worth a moment just to reflect on it.

(Moment of silence.)

LIEUTENANT GOVERNOR BROWN: Let me share something about Shaft. I had an opportunity to attend the funeral and spend some time with his family. And what an amazing young man he was. You know how most



of us seem to follow either our parents or a job to a place other than where you grew up, right? Many of us in Maryland who have come from other parts of the country, many of us have come for a federal government job and now do something else, maybe. Or perhaps our parents moved here, and we found ourselves here.

Shaft grew up in Connecticut in a fairly large family. And all of them living in Connecticut until he moved here after being assigned to the U.S. Marines at 8th and I, a very distinguished unit, the color guard. He always wanted to be a State Trooper, so he applied to become a State Trooper. And he was number one in his class, and he moved to Maryland.

And soon after his younger brother moved to Maryland and is now a State Trooper. His older brother moved to Maryland and is a teacher. His parents moved to Maryland, following their son. And a number of cousins and other family members. So Maryland is now the home of the Hunter family, and Maryland is a better place because of that. So thank you, Peter, for allowing us an opportunity to remember Trooper Shaft Hunter.

Okay, with that why don't we go ahead and begin the official business of the Board of Public Works. And what we'd like to do today, the room is full as is often the case. And it's my understanding that a number of people are here to speak on Item 8 under the Maryland Department of Transportation's Agenda. So why don't we pull up the Agenda for MDOT and we'll go to Item 8. We'll conclude Item 8, and then we'll resume, we'll pick up at the beginning of the regular schedule or Agenda for the Board of Public Works.

So with that let's turn to Item 8, and Madam Secretary?

MS. SWAIM-STALEY: Yes?

LIEUTENANT GOVERNOR BROWN: It's your item, your Agenda.

MS. SWAIM-STALEY: Yes. Item 8 is the concession contract granting the exclusive right to operate and manage the airport taxicab concession at BWI Marshall. And to speak on this item, if there are questions, we have Paul Wiedefeld, the Director of BWI Airport. And he will introduce others as necessary.

MR. WIEDEFELD: Good morning.

LIEUTENANT GOVERNOR BROWN: Good morning.

MR. WIEDEFELD: Paul Wiedefeld, Executive Director of BWI Airport. I do have a number of the staff here to answer any questions that you may have. I'd be glad to take anything that you have right now, if you have any questions, if you'd like me to go further?

LIEUTENANT GOVERNOR BROWN: Let me just make sure that I understand the, sort of maybe the procedural posture. I read the transcript last night of the Board of Public Works pertaining to this matter. It's my understanding that ninety days ago this item was on the calendar and there was a request by the Department for a one-year extension of the contract. There was some discussion between the members of the Board, including the Governor, and the Board was, seemed to be, well they decided, and I know the Governor seemed to be very much interested in a ninety-days extension, believing that the issues that you needed to resolve and address could be accomplished in ninety days. And I assume that you

are back here today because you are complying with the Board's request, and you think you've got the issues resolved?

MR. WIEDEFELD: Yes, Lieutenant Governor.

In fact, it was just over sixty days. We were given ninety days to get it done, till the end of June, and we're here now to get the, to get it in front of the Board as soon as we could.

SECRETARY MCDONALD: Governor I suggest, we have two clusters of issues, it seems. First, companies in opposition to the award because they are disappointed, they bid on it. And we also have a second cluster of issues from taxi driver operators. So I don't know if you want to have all the speakers on one issue, and then on the other? Or just go in the order that they called up, which is on your sheet?

LIEUTENANT GOVERNOR BROWN: Okay. But before we do that, if we could have someone from your staff or the appropriate person kind of in a nutshell. If you can tee up for us what the decisions, what decision is in front of the Board right now, and what decisions can we make?

SECRETARY MCDONALD: All right. I'm certainly prepared and able to do that. I don't, the Department of Transportation might rather --

LIEUTENANT GOVERNOR BROWN: Sure.

SECRETARY MCDONALD: -- that the Department of Transportation handle that. And I think Mr. Wiedefeld, you can explain just the procurement, and what happened in the procurement. And then he'll be ready --

LIEUTENANT GOVERNOR BROWN: No, I'm sorry. But --

MS. SWAIM-STALEY: We also have Dana Reed with the Office of the Attorney General here.

LIEUTENANT GOVERNOR BROWN: Yeah, that's what I want. I just want to know from a lawyer what are the, what is the range of decisions? Because I want to understand that --

SECRETARY MCDONALD: Okay.

LIEUTENANT GOVERNOR BROWN: -- before we begin hearing information so this way I know how to kind of process that --

SECRETARY MCDONALD: Absolutely.

LIEUTENANT GOVERNOR BROWN: -- and what categories to put that in. So I need someone to say, "Today the Board of Public Works can do one of a number of things. You can either do this, or you can do this, or you can do this. But you can't do this, or this." If that's the case. So who is the --

SECRETARY MCDONALD: The Department of Transportation has two attorneys here, Ms. Dana Reed from the Contract Litigation Unit, and also Ms. Louisa Goldstein, Principal Counsel to the Airport. They will be laying that framework out for you. But again, they will probably also be advocating for the Department of Transportation. But they can certainly lay the framework out for you.

TREASURER KOPP: I don't believe, I think they both actually work for the Attorney General --

SECRETARY MCDONALD: Right.

TREASURER KOPP: -- Department of Transportation.

LIEUTENANT GOVERNOR BROWN: Right. So don't advocate right now, though. Just sort of lay out.

TREASURER KOPP: And Ms. Reed, what is your title?

MS. REED: Good morning, I'm Dana Reed. I'm Principal Counsel in the Contract Litigation Unit of the Attorney General's Office.

TREASURER KOPP: So you are not with MDOT as opposed to --

MS. SWAIM-STALEY: That's correct.

MS. REED: MDOT is one of our clients.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

TREASURER KOPP: One of many.

MS. REED: As is the Board of Public Works.

LIEUTENANT GOVERNOR BROWN: Can you lay out for us what, you know, what is the, what's the major decision here? And then what are the other kind of ranges of decisions that we could make?

MS. REED: The Department of Transportation is asking the Board to approve award of the contract to Dulles Airport Taxi, Inc. And from the point of view, from my point of view as a lawyer with the Attorney General's Office the Board can either approve

that award or it can disapprove that award. And those are the two options that are open to the Board.

LIEUTENANT GOVERNOR BROWN: Okay. So then let me explore further. What about, so a little over sixty days ago, the Department came in for a ninety-day extension. What about an extension? Tell us about, whether that's an option for action? Or what the implications, consequences are, risks of that, if you will.

MS. REED: I don't understand what the purpose of an extension would be. What would be the purpose of an extension?

TREASURER KOPP: Would the legality depend on what the purpose is?

LIEUTENANT GOVERNOR BROWN: Right. Because remember, a little over sixty days ago the Department came down and asked for a one-year extension. So if the request were made by either the Department or anyone else for an extension, what is, as the Treasurer is asking, does purpose factor into whether that's a decision or not that we can make?



MS. REED: There has been an award proposed by the Department of Transportation. So at least from the, from the point of view of the Department of Transportation the procurement is at an end.

LIEUTENANT GOVERNOR BROWN: Okay.

MS. REED: So again, the recommendation is for the Board to approve the end result of that process.

LIEUTENANT GOVERNOR BROWN: So can this Board, can this, what were to happen if the Board decided to extend this action for fifteen days? Thirty days? Sixty days?

MS. REED: Well the Board can certainly postpone a decision. But I don't think there is anything else that can be taken, there is no further action in the procurement that can be taken by the Department of Transportation because they have made a final decision on the procurement. So just --

LIEUTENANT GOVERNOR BROWN: Got you. Okay, I understand.

MS. REED: -- yes, it can be postponed. But I don't see that there is any productive action that

could be taken by the Department of Transportation in the event of a postponement.

LIEUTENANT GOVERNOR BROWN: Okay. So we could extend, but there would be, there could be no action that the Department could take one way or the other on this?

MS. REED: Correct.

LIEUTENANT GOVERNOR BROWN: So if we extend it for thirty days, this would come back in the same posture that it is today?

MS. REED: Correct.

COMPTROLLER FRANCHOT: However, Governor, if we were concerned about this contract being awarded based on whatever people say today and are other thoughts about this, I take it we could reject it?

LIEUTENANT GOVERNOR BROWN: Which is the first, that was the first option that you gave us?

COMPTROLLER FRANCHOT: And you can --

MS. REED: Correct. The Board of Public Works can reject the Transportation Department's recommendation --

COMPTROLLER FRANCHOT: And you can rebid it with the concern, you know, with understanding the concerns that might have been expressed by folks. So --

LIEUTENANT GOVERNOR BROWN: Right.

COMPTROLLER FRANCHOT: -- it may turn out to be appropriate to have a two-week delay just for the Board to focus on this and make sure that the up or down vote is the right one.

LIEUTENANT GOVERNOR BROWN: Right. Okay. And then that's why, so okay. So I understand, I understand the action that is in front of us and we can either today approve or reject the Department, the recommendation from the Department on this action. Or we could extend it and when it comes back it will come back in the same posture of we can either vote it up or we can vote it down. If we vote to extend it, there is nothing more that the Department can do on this action. Is that, and so did I kind of frame up what, and recite back to you what you framed up for the Board?

MS. REED: That's correct. That would be my opinion.

LIEUTENANT GOVERNOR BROWN: Okay. So I'm kind of clear on the framework. I think we're ready to sort of hear some testimony on this.

COMPTROLLER FRANCHOT: I have some, as long as we have Mr. Wiedefeld here.

LIEUTENANT GOVERNOR BROWN: Yeah. Okay, yes.

COMPTROLLER FRANCHOT: Yeah. I have obviously a great deal of respect for Mr. Wiedefeld and his team, and a lot of confidence in MAA. And I think the procurement process was procedurally sound. But I do have, Governor and Madam Treasurer, a few concerns about the implications of awarding the contract today. Particularly because we are being asked to award a four-year contract to a Dulles, I guess this is the name of the company, Dulles Airport Taxi, a Falls Church, Virginia based company, to provide taxicab services at BWI.

My notes say that the bid responses from Yellow Taxi and Regency Cab, two of the bid

respondents, were "found unacceptable and rejected" on the basis of unsatisfactory responses to issues that were raised by the MAA, and to MAA's request for further information. I found that a little bit surprising in the sense that both of those companies are well known entities in the State of Maryland. They are generally regarded as major players within the regional taxicab industry. And it's hard to imagine that they would be unable or unwilling to comply with the terms of our procurement process given how lucrative this contract will be for the winner. And I'm curious as to how they got ruled out of consideration.

MR. WIEDEFELD: A few things. I mean, I agree with you, Mr. Comptroller. The Veolia/Yellow is a very good firm. We've dealt with the principals there for decades. And they do other work at the airport and they do very well. So we were a little disappointed as well. The basic issue there was on the ACDBE portion of the contract basically what we needed is specifically what will they do, so we know what is the function they are going to do? Is it

commercially viable what they are going to do? And that is not what we got from them.

LIEUTENANT GOVERNOR BROWN: They, who is they?

MR. WIEDEFELD: With Yellow Taxi.

LIEUTENANT GOVERNOR BROWN: Okay.

MR. WIEDEFELD: It was left open, and it just wasn't defined, what their ACDBE would do. On the terms of Regency the issue was they never got to the 15 percent goal, nor did they ask for a waiver. So because of that that is why they were rejected. And I can't explain, you know, why they did not get to those. But, you know, we clearly stated this is what we are looking for, this is what is required of the contract, and that is --

COMPTROLLER FRANCHOT: Okay. Well that is obviously a priority. But let's just assume for a moment that their bids had not been disqualified. How did their offers to operate the taxicab service compare with the ones submitted by Dulles Airport Taxi as far as the revenues that would be coming to the State of Maryland?

MR. WIEDEFELD: Well we only opened up two of the revenues, so I can only speak to the two that we opened, which was BWI Taxi, which is the current vendor, and DAT. Those are the only two so I can't speak to the others because we never opened their proposals. Or their bids. In terms of the operations, it's very similar operations. I mean, you know, the taxis come, and basically you are dispatching them, and you are getting them up there, and you are meeting certain goals that we require. And again, we do a first, the first cut is can you technically perform? And all four of the firms could technically perform. And they made that cut. Then the issue was, where are you on the ACDBE? What are the firms? Are they certified, and what is their function? And is it commercially viable? I mean, is it a function that is going to serve basically that goal that we're trying to do as a State. And then the third is the revenue, what's the revenue to the State?

COMPTROLLER FRANCHOT: Well I know there are a lot of priorities here, but revenue to the State is something I think that is front and center. And I'm

concerned that by ruling these companies out we are not looking at what could possibly be the best revenue return for the State. And so I'm sensitive to the fact that you want to have the minority business proposal fleshed out. Is that somebody calling? Someone looking for a cab.

(Laughter)

COMPTROLLER FRANCHOT: But help me understand whether or not there haven't been negotiations in the past for the limousine service and others where you have been able to work out whatever the concerns are that you have about the model proposed by one of these applicants? And why couldn't we have done that in this instance and taken advantage of whatever the bids might have held as far as both revenue and operations?

MR. WIEDEFELD: We did do that. The, the different firms each had four chances dependent upon what their deficiencies were in their bid. So there were opportunities to basically correct the issues that we had. But at some point we have to stop that process. We had two competitive, we had two vendors



that basically met the standard. We had a July 1 date of the contract coming to an end. And we have to make a business decision to move forward and that's what we did. But we had, we have worked on this for over a year to try to get to the point where we had basic solid bids. And that's what we, that's what we worked on. And so there were a number of chances to get there. And at some point we have to stop the process and move forward. And again, that's what we did. And particularly since this current contract runs out on July 1st and is such a, you know, critical service at the Airport.

COMPTROLLER FRANCHOT: Right. But if you have a bid from one of these entities that you were not able to successfully negotiate their MBE, I take it, and it was more than \$1 million higher than what we're being asked to approve today, isn't that something that you should have some flexibility since I believe on the limousine service and other contracts you have gone back not once, not twice, not three times, but four, or in some instances more times to work out. Because these are often technical

discussions that are trying to meet federal regulations. So there is always a certain amount of leeway there that --

MR. WIEDEFELD: In terms of the --

LIEUTENANT GOVERNOR BROWN: Before you answer that can I just, because I, in the question I heard a, sort of a factual predicate that maybe isn't where you are and what you, did you know --

TREASURER KOPP: Do we know now?

LIEUTENANT GOVERNOR BROWN: -- at what point did you know the revenue? At what point did you know the revenue?

MR. WIEDEFELD: I still do not know the revenue from anyone that we did not, that we rejected their bid. I don't know what the revenue is. We never opened the bids. We don't open the bids. From our perspective once they are rejected that is done. We don't --

TREASURER KOPP: But that is the, the normal course is as you described it? That is to look at whether they technically can perform the job, then

whether they meet the State MBE goals, and then everything in place that you open the --

MS. SWAIM-STALEY: Once the bid is deemed to be responsive.

TREASURER KOPP: And if you don't -- yes. If they don't make the first two cuts --

MR. WIEDEFELD: Then we don't open it.

LIEUTENANT GOVERNOR BROWN: You don't get to the revenue question?

MR. WIEDEFELD: No, we never do.

TREASURER KOPP: What I find difficult is why you try so many times?

MR. WIEDEFELD: We do that --

TREASURER KOPP: And why you don't just cut them?

MR. WIEDEFELD: Because we are trying to bring to you more than one bidder so that we have, we've had some competition. And that's the key thing. We're trying to get people to the point where we have competition.

COMPTROLLER FRANCHOT: Well I have a, I mean, it's an important issue because unlike most of

the contracts we approve where we are paying money out, this is something, we're going, you are going to receive money in return. Also the operations, obviously, are an important issue. And the awardee that you are recommending, Dulles Airport Taxi, have you looked at their business model and made sure that their guaranteed payments to us are not based on a business model that are going to cause a lot of impositions on folks that are standing around today, I assume? I'm not sure what they are going to represent. But you know, what, is the business model based on layoffs of cab drivers? Or is it based upon, I guess, for the record can you tell us how many people are employed as taxicab drivers at BWI under the current vendor, and how many would be employed under the new contract as proposed to us for approval?

MR. WIEDEFELD: There's two issues there. One is on the vendor's performance. So we looked at their performance both at Dulles and at Raleigh-Durham. We got very positive references on that. So, you know, we are confident. We manage all of our contracts very tightly. We audit our contracts very

tightly. We have default clauses in the contract that if there's any issues, you know, we can do something about it, we can react to that.

In terms of the, you know, in terms of the number of operators we have approximately 320 taxicabs out there today. In our, the vendor did not propose this, we did this, we in the RFP, or the IFB, we put out that we needed 250. And the reason we went from 320 to 250 is because there has been a 20 percent drop in taxicab usage at the Airport since this current contract is in place. Because people have changed their travel behavior. And what that results in is you have too many operators chasing too few dollars. It makes it very difficult, you know, for everyone. Because the demand just isn't there. So we proposed, was that we basically go with the 250. It could go up as demand grows, but we've got to monitor that to make sure that it does go up. But with a 20 percent drop in business in terms of people using taxis, the passengers has gone up, but the taxi use has gone down. Because people usually share rides, they are

doing limos, they are doing whatever they doing.  
Light rail.

COMPTROLLER FRANCHOT: Okay. I can follow that. So of the new number, 250 or whatever, somewhere between 250 and 320, I take it right now they pay a taxicab stand fee of \$169 per week?

MR. WIEDEFELD: Mm-hmm.

COMPTROLLER FRANCHOT: Is that assessed by you or by the company?

MR. WIEDEFELD: That's assessed by us and stays the same under the new contract.

COMPTROLLER FRANCHOT: So that's going to stay the same under the new contract?

MR. WIEDEFELD: Yes.

COMPTROLLER FRANCHOT: Okay. You mentioned references. I understand the gentleman Mr. Massoud, who is the President and CEO of Dulles Airport Taxi, was the subject of considerable public scrutiny several years ago over allegations of unfair labor practices. Did that --

MR. WIEDEFELD: He was. I mean, I've read the articles. I've read articles, to be frank, about

a number of taxicab companies and they tend to be all over the place. We, again, we relied on the reference checks that we did. We got extremely good references from Dulles and from Raleigh, and has performed there over the last seven-plus years with no issues. And in fact when some of the issues he had at Dulles after initially he left there, the new firm came in and the taxicab operators wanted him back. So it's, you know, it's a tough business and --

COMPTROLLER FRANCHOT: Well I read those articles, several articles. One from the *Post* described his drivers staging a protest on Capitol Hill over his business tactics, charging that he was overcharging, charging excessive fees to drivers and lease rates, forcing them to work excessive hours just to recover the lost money. Another article talked, also in the *Post*, where he fired a dozen drivers and had their cars towed in the middle of the night. And several members of Congress called for an investigation into Mr. Massoud and his company's business practices. And he was subsequently evicted

from the contract, and then the controversy kind of faded. So has he been rehabilitated?

MR. WIEDEFELD: He then came back and re-won that contract, has been active in there I believe for seven years currently. And there have not been those issues. And I also, I think in one of those articles it also says that after he left, after those incidents, the new vendor came in and the taxicab operators were requesting that Mr. Massoud come back.

LIEUTENANT GOVERNOR BROWN: So what was the year on the incident that was reported in the *Post* that the Comptroller --

COMPTROLLER FRANCHOT: 2000.

MR. WIEDEFELD: 2000.

LIEUTENANT GOVERNOR BROWN: 2000? And when was he evicted? When was he fired from this --

MR. WIEDEFELD: Do you know the, if you don't mind the gentleman is here.

COMPTROLLER FRANCHOT: Oh, good.

LIEUTENANT GOVERNOR BROWN: Mr. Massoud?

MR. WIEDEFELD: Yes, mm-hmm.

COMPTROLLER FRANCHOT: Excellent.



MR. MASSOUD: Good morning, sir.

COMPTROLLER FRANCHOT: How are you?

LIEUTENANT GOVERNOR BROWN: Sir, could you just identify yourself for the record? Because we have a, we record the proceedings. Just tell us who you are and who you are with, and then just if you could just answer the question or two that I asked about the timing? Who is Mr. Massoud?

MR. MASSOUD: Thank you, sir. My name is Massoud, spelled M-A-S-S-O-U-D. First name is Farouq, F, as in Frank, A-R-O-U-Q. I was born and lived in Afghanistan and I came in this country in 1963 and I am very proud of that.

LIEUTENANT GOVERNOR BROWN: So I don't want to relitigate anything that happened in 2000, but just on the dates that the report that the Comptroller read from the *Washington Post* with some allegations about conduct, what year did that happen?

MR. MASSOUD: That was two thousand, I believe it was 1999.

LIEUTENANT GOVERNOR BROWN: 1999?

MR. MASSOUD: 1999 and 2000.

LIEUTENANT GOVERNOR BROWN: Okay. And are you currently at Dulles?

MR. MASSOUD: Yes, sir. I'm currently back at Dulles Airport.

LIEUTENANT GOVERNOR BROWN: When did you come back to Dulles?

MR. MASSOUD: 2008.

LIEUTENANT GOVERNOR BROWN: 2008 you came back to Dulles? And when did you leave Dulles?

MR. MASSOUD: I'm still working there.

LIEUTENANT GOVERNOR BROWN: I know, I'm sorry, but working back now. You came back in 2008?

MR. MASSOUD: Yes, sir.

LIEUTENANT GOVERNOR BROWN: When did you leave?

MR. MASSOUD: I was offered the Columbus International Airport, and also I was a consultant for numerous airports. And I --

LIEUTENANT GOVERNOR BROWN: Mr. Massoud, at one point you were at Dulles and you left?

MR. MASSOUD: Yes.

LIEUTENANT GOVERNOR BROWN: What was the date that you left?

MR. MASSOUD: The date July, 2000.

LIEUTENANT GOVERNOR BROWN: July, 2000? So for eight years you were not at Dulles and you have since returned to Dulles?

MR. MASSOUD: That's correct, sir.

LIEUTENANT GOVERNOR BROWN: Okay, thank you. Do you have any further questions, Mr. Comptroller?

COMPTROLLER FRANCHOT: No, I'm happy to have Mr. Massoud here. But it seems like kind of a gray area that we have here, where first you were involved in practices that were very controversial, then the company after you, whoever they were, were involved in very controversial practices, and now you are back. I'm just not comfortable given that history of making the decision, frankly, without some more review, Governor. And I appreciate the fact that you are here. But these, you know, we are talking about essentially not treating workers fairly. At least that is the record before your current tenancy. So I do have some questions about this and I guess we'll

continue to explore it. But the history I believe is, you know, I am just reluctant to have the BWI drivers move into a business system where there is going to be anything like some of these practices that were described. I guess the argument is that the people that followed you were worse than you were, and so --

MR. MASSOUD: Yeah it just --

COMPTROLLER FRANCHOT: -- and now you, so I guess we've got the pot calling the kettle black, or something. I don't know. But I don't feel very comfortable right now based on --

MR. BRAZIL: Sir, my name is Harold Brazil, attorney for DAT and Mr. Massoud. I'm glad to be here in the State of Maryland. Today, and I think the speaker on behalf of the Authority sort of made it clear. I mean, number one it's a very tough business. And they've got to go back and forth, etcetera. But in any event, DAT has been at Dulles, back at Dulles, at the request of the drivers. Because once they saw the other side they realized where it was greener. That's one issue. I guess the other is, I mean, you look at track records, I would think the most recent

track records, these last almost four years, three years, exemplary service. Good relationships with the drivers. The Raleigh-Durham experience. All the references of actual recent I can touch and feel now kind of operation has been exemplary. This is, you know, by word of the Authority that's gone through this in great details. I'll just leave you with that, sir.

COMPTROLLER FRANCHOT: Well and thank you for all your previous service, Mr. Brazil. I didn't realize that was you standing there, but that's great.

MR. BRAZIL: Or what's left of me after public service.

COMPTROLLER FRANCHOT: Yeah. So I have two concerns. One is the money that may be left on the table because of the procurement review which is not your business. I've heard from the State, but I'm not, you know, given the situation we have I would, I would not be happy if we were leaving money on the table. And number two, you know, the company Yellow and others that are very well regarded for their labor practices and other things. You know, we are

basically being asked to sign off on a very lucrative contract for your client and as I said I'm just, I guess I'm not comfortable with either their or whoever preceded them's labor practices over at Dulles. Because it's controversial. You get members of Congress involved, and you, it becomes a mess.

MR. MASSOUD: That's --

LIEUTENANT GOVERNOR BROWN: I'll tell you what, though, sir, I didn't really hear a question there. And --

COMPTROLLER FRANCHOT: Yeah, I'm happy to hear from drivers or whoever else is going to testify.

LIEUTENANT GOVERNOR BROWN: Yeah. Yeah. So, yeah. I appreciate that. Okay. Why don't we kind of come back to the agency, and you can pick up where you left off if there is a place where you left off? And then we'll just continue because we have some other, thank you sir, we have some others who are here to speak.

MR. WIEDEFELD: Any other questions?

TREASURER KOPP: I just have a question that I think we're going to need to talk to our lawyer. I

appreciate the Attorney General is the lawyer for the State but the Board of Public Works also has a legal advisor who is not an AAG. But just so I understand, this is not a "procurement." Is that right or wrong?

MS. CHILDS: It's not a procurement under the State procurement law.

TREASURER KOPP: Right.

LIEUTENANT GOVERNOR BROWN: Can I just do one thing? I'm sorry.

TREASURER KOPP: That's the quotes.

LIEUTENANT GOVERNOR BROWN: I don't want to interrupt here. But I'm anticipating going into a closed session before this item is resolved to consult our legal counsel.

MS. CHILDS: Okay.

LIEUTENANT GOVERNOR BROWN: So I would ask that, if we could on this question, if we could just hold off until the closed session on that?

TREASURER KOPP: I would like to have Ms. Reed on record saying whether this is or is not "a standard procurement." That's why I used these little

things. We understand that it is generically procuring something.

LIEUTENANT GOVERNOR BROWN: Can you tell us, yeah, what is the legal nature of this action?

MS. REED: To be specific it's not a procurement that's subject to the provisions of Division Two of the State Finance and Procurement Article of the Maryland Code.

TREASURER KOPP: Okay. So, and it follows the process that the Department has set out for these types of concessions? Obtaining of services?

MS. REED: I would say that's correct.

COMPTROLLER FRANCHOT: But if I could just, I take it it's before us because it involves revenue which is coming to the State.

TREASURER KOPP: Right.

COMPTROLLER FRANCHOT: Even though it's a lease, and not a standard procurement, it's something that's appropriate for the Board to --

TREASURER KOPP: Right.

COMPTROLLER FRANCHOT: -- have full authority over.



MS. REED: My understanding is it's before the Board because it involves a lease. A revenue, as a revenue generating contract it's not covered by the procurement law.

MS. SALZMAN: But the Board has exempted --

LIEUTENANT GOVERNOR BROWN: Please identify yourself. Thank you.

MS. SALZMAN: Janice Salzman. I'm Deputy Counsel at the Airport.

LIEUTENANT GOVERNOR BROWN: Hi.

MS. SALZMAN: The Board of Public Works has exempted revenue producing contracts at the Airport from the State procurement law. But it still is a procurement in the sense that we do an invitation for bids, and we did a two-step invitation for bids where we went out and we asked for technical information to make sure the firms were technically qualified. And at that point the ones that were technically qualified, we opened up the bid, the financial bid. And then we come to the Board for the Board's approval because it is a revenue producing contract exempt from

the procurement law and it also involves a lease of State property.

LIEUTENANT GOVERNOR BROWN: And you are governed by both, I mean, this action is governed by provisions in our statute as well as COMAR? Or what, no --

MS. SALZMAN: No, we don't follow COMAR. We don't follow COMAR.

LIEUTENANT GOVERNOR BROWN: Okay. Then tell me what the legal framework is?

MS. SALZMAN: The legal framework is that the Airport for many, many years has been using IFBs and RFPs to get all of the revenue producing contracts at the Airport. The food and beverage, the parking, the rental cars, the taxis, the limos. We use the same process. And we bring all of that to the Board to approve that the consideration is adequate and then where there is a lease involved to approve the lease.

LIEUTENANT GOVERNOR BROWN: I'm sorry. I used the wrong, I didn't mean legal framework. What is the legal authority upon which the agency conducts

the process it does to get to where we are today?

What is the legal authority?

MS. SALZMAN: The legal authority is through the Board's exemption of us from the State procurement law. And we follow what the Airport has been doing all these years in bringing all these contracts --

LIEUTENANT GOVERNOR BROWN: So it's really practice, right?

MS. SALZMAN: It's our practice, yes.

LIEUTENANT GOVERNOR BROWN: Practice. Which is based on an authority, if over time that's your practice it could be considered to be authority. But so you are saying you couldn't say to me today, "This is the written rule or regulation that's been promulgated that guides our actions?"

MS. SALZMAN: That, we do it internally in the Airport but as you see when we come here we do do IFBs, we do do RFPs. We do a lot of the same kind of procurement that you do under State procurement law but we are exempt from the COMAR regulations. And of course our, we don't follow the State MBE law but we

follow the federal law and regulations for airport concessions disadvantaged business enterprises.

COMPTROLLER FRANCHOT: Okay. I just had one follow up to that. Because I was concerned that your earlier testimony was that from your standpoint this contract is already competed and done, there's nothing you can do implication wise legally and go back and look at it. But isn't it true that you could do a last final offer? You have flexibility to, you know, work out the details with these companies that for technical reasons you are not allowed to open their bids?

MS. SALZMAN: Well the panel --

COMPTROLLER FRANCHOT: You have their bids, I take it?

MS. SALZMAN: We had a panel. The panel made the decision to give four chances and then we had two qualified bids that met all of our technical and the panel made the decision to --

COMPTROLLER FRANCHOT: Right. All I am asking is, is it because you don't want to?

MS. SALZMAN: No, the procurement, the procurement is over --

COMPTROLLER FRANCHOT: I know, I hear that.

LIEUTENANT GOVERNOR BROWN: Don't be afraid of that podium, now. Front and center on that podium.

(Laughter)

LIEUTENANT GOVERNOR BROWN: Okay. It gets a little warmer as you get to the center, but it won't burn you.

(Laughter)

COMPTROLLER FRANCHOT: You understand what I, Mr. Wiedefeld maybe you can help us.

MR. WIEDEFELD: I do --

COMPTROLLER FRANCHOT: My concern is that you, as any agency I take it would circle the wagons once you've got a decision and you don't want to move perhaps. And that's fair. I can respect that because you obviously have put a lot of time into this. My question is legally you I believe can go back and ask for final offers and you are entitled to do that even though the statement is that the process is over. And I guess the question is, you know, are we talking

about our preferences here? Or are we talking about our legal restrictions?

MR. WIEDEFELD: I think this gets at the issue the Treasurer raised earlier and I think the discussion in closed session is appropriate because I think you have other attorneys that may have different viewpoints. Your own attorney, I think you want to hear from them. I mean, you heard what the Attorney General's view of this was. I can't comment on the legality of it, but I think you raised the issue that you want to raise. And with your own attorney, I think that's the place to follow up on that question.

LIEUTENANT GOVERNOR BROWN: Okay let me say, we're going to, let's see, here's how I think, here's how we're going to proceed. Our attorney, who is in the room, is now on notice that we are going to go into closed session soon. And so I would ask that our attorney do the necessary legwork, research, consultation, etcetera because when we go into closed session we want an answer to the question raised by the Comptroller about this extension and what the

agency is legally able to do. Not advice on what they ought to do, but whether they can do something.

But in the meantime while you are doing that I think we should continue, because you are going to need time perhaps, to receive testimony. Do we call it testimony?

SECRETARY MCDONALD: Excuse me, general counsel? Or the --

LIEUTENANT GOVERNOR BROWN: No, when people appear before the Board do you call it testimony?

SECRETARY MCDONALD: Yes, you do. We do call it testimony. Excuse me, I was getting ready for --

LIEUTENANT GOVERNOR BROWN: It's not sworn testimony. It's unsworn testimony.

SECRETARY MCDONALD: It's unsworn, yes.

LIEUTENANT GOVERNOR BROWN: So we'll continue receiving --

SECRETARY MCDONALD: But everybody is on their honor.

LIEUTENANT GOVERNOR BROWN: Great, on your honor, that's good. And --

(Laughter)

LIEUTENANT GOVERNOR BROWN: Okay. So why don't we, unless there are further questions, why don't we then go to those who are speaking in opposition? And we will start with Bishop Robinson, representing BWI Taxi Management. Good morning, sir.

MR. ROBINSON: Good morning, Lieutenant Governor, and Comptroller, Madam Treasurer. Your question has stolen a lot of the thunder that I had about Dulles Airport Taxi. So I'm not going to repeat all of that.

Assuming that there are other options, they mentioned three options, I think you all agree that there were three options. There is a fourth option, and the fourth option is you could award this contract to the second highest bidder, which is my client BWITM. So that's the other option that could be on the table. I just wanted to make the Board clear that that is an option.

The other thing that I wanted to bring to the attention of the Board is the fact that the business model is an issue. It's a concern. It is



the concern that my clients have had and they've had to work through for about fourteen years. And the business model on a visual basis, if I could just show you this real quick, is this. On the BWI side is the amount of cabs, there are two kinds of cabs at the Airport. One is an owner operator cab. The other one is a lease cab. Now the orange represents the owner operator cab and the green represents the lease cab. Right now BWI has about 80 percent owner operated cabs. This is good for the State because these are entrepreneurs. These are businessmen. These are people who are in business for themselves. Leased operators have to pay a fee. They have to pay a pretty hefty fee in order to rent a cab from the concessionaire.

If you look at what Dulles Airport intends to do you will have a mix where the owner operator's cabs are just slightly above the lease operator's cabs. Now what does that mean? Why is that significant? That's significant because when you have a condition like BWI currently has in this business model, it means that people have the incentive to work

as a lease operator because they have a chance to get promoted. They have a chance to buy their own cab and become an entrepreneur, become a businessman.

When you have a situation like Dulles proposes what you have is a situation where there are going to be very few opportunities for a person to get their own cab. To raise enough funds to become a business owner, an entrepreneur. And I do believe one of the policies of the State is that we want people to go in business and create jobs. When you do become an owner operator you do have the ability to hire a second driver so you can keep your cab on the road longer.

So we have Marylanders right now as business owners at BWI who are paying taxes, who are facing rising costs, uncertain economic conditions. And if you choose this business model, even though it gives you more revenue, what you have is the situation like the handouts I hope you have in front of you which demonstrates, I'll let you get them.

LIEUTENANT GOVERNOR BROWN: What about that chart that you just showed us? Is that, do we have a paper of that in the record?

MR. ROBINSON: No, I don't. I only had that one chart and I had to make corrections on it last night so I didn't get a chance to duplicate it. I can get you a copy.

LIEUTENANT GOVERNOR BROWN: You stated the facts that were reflected in the chart so I think that's fine.

MR. ROBINSON: Yeah. I just wanted you to have a visual idea of what I'm getting ready to go into next, which is the quantitative analysis that we use based on Dulles' business model. What that means, what does it mean to the State? It appears as though you get almost \$1 million more in revenue. But if you look at this chart that I've done for you you'll find that where that revenue comes from is on the backs of drivers. These drivers and on the operator drivers.

If you look at the second chart where it says, "Lease fee increase of \$84 for seventy additional cabs," because it would take seventy

additional lease cabs to get to the amount of lease cabs that Dulles is proposing, then you are looking at another, that's \$1.2 million that lease cab drivers have to pay in addition over the four-year term of the contract. If you look at this new thing, which BWI does not have, which is called a communication fee, that's another \$1 million over and above what lease cab drivers pay at the Airport right now.

So in all in a four-year period probably \$2.3 million is the result of increasing fees because of these new fees that are being imposed on the drivers. As I said, earlier, you know, drivers like anybody else in the State and the country are facing rising costs. They are facing high gas prices. And now you want to slap onto them another fee, two other fees?

You know, the drivers at the Airport have families. They have mortgages. They have children in school. And if we keep adding fees after fees after fees then, and it's not the State doing it. This is Dulles Airport Taxi doing it. Then you are making it

very difficult for the people to survive, to economically thrive, and to keep their businesses. Given these additional fees I would predict that most of the drivers who are currently working at BWI would not wish to work for Dulles Airport because they would have to pay more fees.

Now you can see the numbers and I want you to go down to the fourth chart. Let's say you took out the increased fee, the increased lease fee. Then BWI --

TREASURER KOPP: Mr. Robinson? Mr. Robinson? Could I interrupt just to ask one question?

MR. ROBINSON: Sure.

TREASURER KOPP: I understand this about the \$20 communications fee. Are there other fees in addition that either you or the other companies charge the drivers?

MR. ROBINSON: Yes. We charge a lease fee.

TREASURER KOPP: Everyone --

MR. ROBINSON: BWI charges a lease fee. There is a stand fee. That's what, that's what a lease driver would pay.

TREASURER KOPP: The lease fee and stand fee

--

MR. ROBINSON: And a stand fee.

TREASURER KOPP: -- are paid in any case.

MR. ROBINSON: In any case.

TREASURER KOPP: Are there any other fees?

MR. ROBINSON: Now if Dulles was awarded this contract they would charge a \$20 communications fee.

TREASURER KOPP: Right.

MR. ROBINSON: And that would apply not only to lease drivers but it would also apply to owner operators.

TREASURER KOPP: I understand. Does BWI apply any other fees beyond the lease fee and the stand fee?

MR. ROBINSON: No.

TREASURER KOPP: None?

MR. ROBINSON: None.

TREASURER KOPP: Thank you.

LIEUTENANT GOVERNOR BROWN: So let me ask a question from me. For the 250 drivers in the contract

going forward, I'm assuming that a high percentage of those 250 would be drivers who are currently at the Airport? They would just fall under a different concessionaire?

MR. ROBINSON: Well the reason why, the reason why I'm pretty positive about these numbers is because they were attempting to hire. They were having people fill out applications.

LIEUTENANT GOVERNOR BROWN: Right. Right.  
So --

MR. ROBINSON: But my understanding is they weren't all from the Airport. Not everyone at the Airport under BWI is interested in working for Dulles Airport.

LIEUTENANT GOVERNOR BROWN: And just because these numbers are sort of gross numbers in terms of kind of size and impact, what is the, so if I'm a driver at the Airport today and I choose to continue if it works out right, and Dulles and I were to enter into an agreement where I would then drive at the Airport under their contract, what do you think my, on average, my weekly take home difference would be?

MR. ROBINSON: I can't really estimate what the take home difference would be, Lieutenant Governor, because it depends on a lot of variables. Like how long do you stay in a cab? How busy is the Airport?

LIEUTENANT GOVERNOR BROWN: Because this number is hard for me to really --

MR. ROBINSON: The only thing I'm trying to show you, Lieutenant Governor, is that the money that created this bid, which was almost \$1 million over our bid, would cause or would be taken from the drivers, whoever they are, that work for Dulles Airport.

LIEUTENANT GOVERNOR BROWN: I understand.

MR. ROBINSON: And it would be to the tune of \$2.6 million over a four-year contract.

LIEUTENANT GOVERNOR BROWN: I understand.

MR. ROBINSON: And that's \$2.6 million that is not currently being put on the shoulders of BWI taxi drivers.

LIEUTENANT GOVERNOR BROWN: Right.

MR. ROBINSON: And if you took those, the lease fee increase out, which would be required for



seventy cabs, our bid would have been higher than Dulles Airport's. If you took out the communication fee it would have been higher than Dulles Airport. If you took them both out we would have exceed Dulles Airport by almost \$2 million.

Now I want to wrap here because I know other people want to speak. But I'm assuming that MAA did a great job. I mean, you know, it's true. They don't fall under Finance, under Annotated Code of Finance. And they are exempt from that. But they have to have some kind of system. And the system that they have used is the same system that they used the last time and the time before that. And so a modification on that system would really throw the, I think, the process into disarray. Because, you know, right now it's the MBE issue. The next time it could be, you know, the price issue. Or just any number of issues. I think I would recommend that the Board allow the process to stand. But I would also request in view of the information that I have given the Board today that the two qualified bidders are just about even in everything except for the price of the bid. But I've

tried to explain that the price of the bid that is high is going to be on the backs of the taxicab drivers. And so I would request for this Board to consider the fourth option, which is to award the concession contract to my clients, BWITM.

LIEUTENANT GOVERNOR BROWN: Any questions?  
Thank you. Thank you very much.

MR. ROBINSON: Thank you.

LIEUTENANT GOVERNOR BROWN: Why don't we hear next from Neal Janey, representing three current taxicab drivers? Did I get it right, Janey? Is that right, Mr. Janey?

MR. JANEY: That's correct, Your Honor.

LIEUTENANT GOVERNOR BROWN: Okay.

MR. JANEY: Although if you had said Janey I would have accepted that as well. There's a long explanation for the difference in pronunciation.

LIEUTENANT GOVERNOR BROWN: But I don't accept the title, "Your Honor."

(Laughter)

MR. JANEY: Good morning, Lieutenant Governor --

LIEUTENANT GOVERNOR BROWN: Good morning.

MR. JANEY: -- Mr. Comptroller, Madam Treasurer. I'm going to change the flow of my presentation a little bit to respond to several questions that came up before I stood here at the podium.

LIEUTENANT GOVERNOR BROWN: But before you do that, as you are collecting your thoughts and papers there, can you start just so that I know what I am listening for, what is your request? Start with what your request is to the Board, and then if you would present?

MR. JANEY: Our request is first of all that the Board not approve the recommendation of contract award, throw out the current contract, and direct the Agency to rebid it.

LIEUTENANT GOVERNOR BROWN: Okay.

MR. JANEY: And since we are on that, Governor Brown, I'll just deal with that part of the presentation. First of all, this contract does not protect the business model that has been in place at BWI Airport for years. Under the, the current

business model, as Mr. Robinson just pointed out, encourages owner operators. These people are entrepreneurs. These people are businesspeople. They purchase their own cabs and equipment. They cover their own expenses.

Essentially what you have is a situation where the revenues are driven by the stand fees. That's \$169 per week, per driver. Now this is data that I got from the contract materials from MAA. You have 281 owner operators. The current manager is authorized to lease forty-three cabs, but he currently leases thirty-nine. The current fleet is 320 cabs. The current fleet size was approved over the years by the Agency. When this contract started in 2003 it started with a commitment of 180 cabs and over the years this Agency has authorized the increase to 320 cabs.

In terms of revenues this is why this becomes significant. Since contract year 2005 this contract has generated \$2 million a year in revenues to the State. It is currently generating that amount of money. If you go back, Governor Brown, to the very

item that you referred to, and that is the action Agenda that the Agency itself submitted at the March 23, 2011 Board meeting, and this is in connection with the request to extend the current lease, it says right here on the Agenda that the estimated revenue is \$2 million. If you go back to the action Agenda the year prior when this Board did approve a one-year extension, and that was on March 10, 2010, same information. The extension was based on \$2 million revenue. Now there's a note at the bottom indicating contract year 2008, \$2 million. Contract year 2009, \$2 million.

If you look at the information from the question and answer session and the information that the Agency itself provided to the bidders, they showed that under the current contract this contract was generating \$2 million a year every contract year since 2005. 2005, 2006, 2007, 2008, 2009, one extension that the Board has already approved, and the request that they just submitted sixty days ago. \$2 million.

In essence what the Agency is now recommending is that you approve their recommendation

of contract award considering the fact that there are two bids sitting in the basket they haven't even opened. And they are also asking the State to lose money. Right here in the Action Agenda it shows year one revenue, \$1,568,833. That turns out to be \$433,167 less than the \$2 million that has been generated every contract year since 2005.

That also has serious consequences for the cab drivers. Again, the overwhelming majority of them are independent owners. In the action Agenda the Agency concedes that if you award this contract to Dulles Airport you will be reducing the fleet by seventy drivers. In addition to that, with all due respect to the Agency, there is no protection for the other 250 drivers. As a matter of fact, and if the Board would allow me I will just read this briefly. This is from question 146 of the Q & A that was published by the Agency. It says, "Is the selected contractor allowed to use a combination of contractor owned taxicabs and independent owner operated cabs, and if so specify the maximum or minimum percentage of the 250 cabs in the fleet that may be contractor owned

vehicles." This is the response from the Agency.

"Yes, the selected contractor will be allowed to use any combination of contractor owned or independent owner operated taxicabs as it chooses. The administration will not, nor does it intend, to specify a maximum or minimum percentage of independently operated or contractor owned taxicabs operating the taxicab concession service.

Here's what the bottom line is under that language. Dulles Airport Taxi can come in as of July 1 and tell all of the 250 owner operated cabs to take a walk because he's bringing his own fleet in.

Now this is not something I'm pulling out of the sky. Apparently Board members have been reading these articles, and I'll read from one in just a moment. That's a significant point because under the current contract, at least my understanding from reading the articles, that Dulles Airport Taxi has with Dulles Airport, all of their cabs, over 500 cabs, are owned by Dulles Airport. And as Mr. Robinson pointed out to you, that just alters the landscape completely. So he has, he has already as of July 1

eliminating seventy cabs. He has the right after July 1 to eliminate the other 250, throwing out the entire fleet of 320 cabs. That fleet has grown over the years by action of the State. That fleet is generating the revenues that enable the State to get the current level of revenues at \$2 million and has enabled the State to generate or receive revenues of \$2 million a year since the year 2005.

There is no one to one relationship between passengers deplaning, outgoing trips, what have you. This whole contract turns on the business model that currently exists and it's driven primarily by the cab stand fees that these drivers have been paying.

As you noted from my letter, these independent operators have been there for quite a while. One of my operators has been at BWI Airport for thirty-eight years.

LIEUTENANT GOVERNOR BROWN: I have a question. Do you know, and I'd be surprised if you didn't because you are well versed on this. Can you, what is the trend line on the owner operated versus the concessionaire operated? Is it trend line up,



down, flat? What is the percentage out at the Airport?

MR. JANEY: You are talking about at BWI or National?

LIEUTENANT GOVERNOR BROWN: Yeah, no, no, BWI. I mean, you kind of indicated --

MR. JANEY: Yes, 87 percent of your fleet are owner operated.

LIEUTENANT GOVERNOR BROWN: And what was it, you know, and so what's the trend line, though? Is that more than it was last year? Is it more than it was ten years ago? Is it level?

MR. JANEY: That's just about average. It's always been a small percentage of owner operated cabs.

LIEUTENANT GOVERNOR BROWN: At BWI?

MR. JANEY: At BWI.

LIEUTENANT GOVERNOR BROWN: Okay. And that, Mr. Wiedefeld, that's consistent with your information? Yeah. And how does that compare with National? Any idea?

MR. JANEY: Well at National Airport, at least the information that I have, is that Dulles

Airport Taxi currently has over 500 cabs. It owns all of them.

LIEUTENANT GOVERNOR BROWN: Oh, they have National as well? I said National, not Dulles, yeah.

MR. JANEY: I apologize. I --

LIEUTENANT GOVERNOR BROWN: Yeah. I'm going to go around the Beltway. So Dulles --

(Laughter)

LIEUTENANT GOVERNOR BROWN: -- Dulles, you already told me. What about National? Do you know about National?

MR. JANEY: I don't have any of that on National at all.

LIEUTENANT GOVERNOR BROWN: Okay.

MR. JANEY: As a matter of fact I think, Governor Brown, and obviously you have the staff to research it, I believe that National has an open system.

LIEUTENANT GOVERNOR BROWN: Okay.

MR. JANEY: I don't think that they have an exclusive contractor.

LIEUTENANT GOVERNOR BROWN: Okay. But --

MR. JANEY: But I'm just dealing with Dulles.

LIEUTENANT GOVERNOR BROWN: -- yeah, let me withdraw my question on National. I mean, if you don't know that's fine.

MR. JANEY: All right.

LIEUTENANT GOVERNOR BROWN: Do you have other information that you want to present? And are there questions?

MR. JANEY: Yes I --

LIEUTENANT GOVERNOR BROWN: The Comptroller has a question.

COMPTROLLER FRANCHOT: Just you may be summing up but I just wanted to thank you for your testimony because I think it clarified the situation. What we want on behalf of Maryland, number one, are the revenues that we can achieve. We also want appropriate working conditions. And --

(Applause)

COMPTROLLER FRANCHOT: So --

LIEUTENANT GOVERNOR BROWN: Now let me just say this.

COMPTROLLER FRANCHOT: Yes, I agree --

LIEUTENANT GOVERNOR BROWN: Thank you now for applauding the Comptroller. But I would just ask that we refrain from public expressions of our emotions.

COMPTROLLER FRANCHOT: Thank you, Governor. And I think it's --

MR. JANEY: I'm sorry, Mr. Comptroller.

COMPTROLLER FRANCHOT: Isn't that so, that we need to be focused on the two subjects that you addressed? Because frankly I didn't even fully comprehend this, but obviously the independent operators to the extent they live and bring their families up in Maryland are generating a lot of economic activity in addition to the dollars that are directed back to the Airport Authority.

MR. JANEY: That is correct, Mr. Comptroller. They are, they are earning the income for their businesses. They are supporting their families. They are paying taxes on their vehicle and equipment. They are paying property taxes if they are homeowners. They are paying income taxes. If this

contract is approved the way it was structured it will be total devastation to the taxicab industry at the Airport as it currently exists and as it has existed with State authority for at least twenty years. This contract model according to data from the Agency that is in the bid documents has been in place since 1989.

COMPTROLLER FRANCHOT: Great and --

MR. JANEY: It is inconceivable to me, Mr. Comptroller, that you can encourage this model. You literally invite people to come in to establish their own small businesses, to own their cabs. They relied on that now for twenty years. And what, in sixty days you just totally devastate it? As I said, on July 1 seventy people are gone.

LIEUTENANT GOVERNOR BROWN: Let me do this. We've certainly got the facts that you are presenting. Are there any other questions from the Comptroller?

MR. JANEY: Just one thing, Lieutenant Governor.

LIEUTENANT GOVERNOR BROWN: Because we do have other people, that's right, okay.

MR. JANEY: Just one matter. In one article, and I only have one copy but I'll give it to the --

SECRETARY MCDONALD: We'll make copies.

MR. JANEY: -- clerk here. There's another issue with Mr. Massoud that was not mentioned. And I think it's important. I'll read from the *Washington Post* article dated May 10, 2009 and I'll provide it to your staff here. It reads as follows. "After losing his contract in 2000 a court fight ensued and a Fairfax County judge ruled that Massoud's firm owed the Authority," that's Dulles by the way. That's after he was terminated the first time. "\$1.2 million in unpaid fees. The firm filed for bankruptcy and did not pay according to records and interviews."

LIEUTENANT GOVERNOR BROWN: Well let me do this. I'm not a big fan of the newspaper articles here, only because I don't want to relitigate this and in sort of, you know, respect to Mr. Massoud I don't want to put him on the hot stand. But I got to ask Mr. Massoud just to confirm whether what was read is accurate? And if you don't want to, that's fine. But

otherwise I have difficulty sort of even processing that information.

MR. JANEY: Yes, I understand, Lieutenant Governor.

LIEUTENANT GOVERNOR BROWN: So I'm going to give you the opportunity, Mr. Massoud. But you really don't have to if you don't want to. I mean, do you want to comment on that *Washington Post* article?

MR. MASSOUD: Washington Dulles Transportation went bankrupt. That's an accurate statement.

LIEUTENANT GOVERNOR BROWN: Okay. Thank you.

MR. MASSOUD: Yes. And also the Airport Authority owe us \$1.8 million. They know that.

LIEUTENANT GOVERNOR BROWN: Okay.

MR. MASSOUD: But that's all history. That's seven, eight years ago.

LIEUTENANT GOVERNOR BROWN: Okay. Thank you.

TREASURER KOPP: And could I just ask either of those gentlemen, that was before the Dulles

contract was rebid and awarded to Mr. Massoud's new company?

MR. JANEY: That's correct.

TREASURER KOPP: Oh, okay. And that went into the consideration of the evaluation of this? Okay, thank you.

LIEUTENANT GOVERNOR BROWN: Okay.

MR. MASSOUD: But the gentleman got a little bit of the facts wrong, sir. Because Dulles does not have 500 cabs leased. I just to make addition to understand this, and that's the facts is all.

MR. JANEY: All right. Well I --

LIEUTENANT GOVERNOR BROWN: Mr. Massoud, but let me just hear from Mr. Massoud on that one fact, if we could. What is the number out in Dulles? How many --

MR. MASSOUD: Seven hundred, total of 726 permits have been issued by the Airport Authority.

LIEUTENANT GOVERNOR BROWN: Seven hundred plus cabs?

MR. MASSOUD: Yes.



LIEUTENANT GOVERNOR BROWN: And what is the percentage of owner lease? No, the owner --

MR. MASSOUD: The three companies running this are DET, us, one Mark Joseph there, with Mr. Joseph and his associates in there. The other one there, transportation general, or DTS. Each one of us there is one-third. My fleet and Mr. Joseph's fleet run lease cabs.

LIEUTENANT GOVERNOR BROWN: Okay. On your fleet, what percent --

MR. MASSOUD: Thirty-five percent.

LIEUTENANT GOVERNOR BROWN: You own 35 percent and the drivers own 65 percent?

MR. MASSOUD: That's correct, sir.

LIEUTENANT GOVERNOR BROWN: So it's not 100 percent, what I heard?

MR. MASSOUD: No.

LIEUTENANT GOVERNOR BROWN: Okay.

MR. JANEY: Again, Your Honor, and I --

LIEUTENANT GOVERNOR BROWN: No, no, I don't want to go back and forth. I just want to hear from -

MR. JANEY: Yes, I understand.

LIEUTENANT GOVERNOR BROWN: -- okay, I got that. Okay. Okay. That's fine. Any other questions?

MR. JANEY: And Lieutenant Governor, I was just relying on what I read. There is one more point, though, when you consult with your counsel. You actually have a fifth option. Disapprove the contract award, rejecting the bids, order the rebidding, and the Board does have the discretion, at least as I understand it, I'm not part of the Attorney General's Office, obviously, but as I understand it you can then extend for a year, as the Agency requested sixty days ago, the current contract while the contract is being rebid.

LIEUTENANT GOVERNOR BROWN: Right. Okay. Thank you.

MR. JANEY: Thank you.

LIEUTENANT GOVERNOR BROWN: Let's hear from, now I have next on this list, so, John Singleton representing BWI Taxi Drivers and Samson Yemenu, BWI Taxi Drivers. Are you both representing the same,

can we just hear from one of you? Flip a coin, do an arm wrestle, whatever you need, just one of you?

MR. SINGLETON: I don't think I have to arm wrestle Mr. Massoud. His arm is not in good shape.

LIEUTENANT GOVERNOR BROWN: Oh, okay. I didn't know that. Sorry. Okay.

MR. SINGLETON: My name is John Singleton. I am an attorney. I have been representing BWI Taxi Drivers Association for years now. I also represent the shuttle drivers, who number eighty-five in addition to these 325 people, whose plight is the same. But I won't go into that now.

We have had problems with the current operator for years and years. In fact, so much so because of the exploitation and problems that we brought up last time that they went and attempted to organize. And in fact, while everyone keeps calling them --

LIEUTENANT GOVERNOR BROWN: Hold on. Time out. Sorry. I can't, can you please state what your request is to the Board? So this way as you present I know exactly what I'm listening for?

MR. SINGLETON: Our proposal is that you throw out the existing bids. That they are all unqualified bidders. Take a look at the bidding process and what you are trying to accomplish.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MR. SINGLETON: And do it right.

LIEUTENANT GOVERNOR BROWN: And in your presentation are you going to identify those things in the bidding process that you think we ought to be, or the Agency, ought to be addressing?

MR. SINGLETON: Yes. Absolutely.

LIEUTENANT GOVERNOR BROWN: Okay.

MR. SINGLETON: I'm, because you weren't here last time I'm just trying to give you a little background.

LIEUTENANT GOVERNOR BROWN: Okay. But I read the record, and I read the transcript. So --

MR. SINGLETON: Okay. So you know that they have been declared employees by the federal government and by the State of Maryland DLLR. So the concept or the thought that they are entrepreneurs and that they are controlling their own fate is a fallacy.

When we came here last time the MAA was asking for an extension of time, claiming that there were DBE issues with regard to the contract. And in fact told the story of having to go to Judge Byrnes in Baltimore City Circuit Court not on one occasion but on two occasions. He told them, "You'd better not come back here for a third time." And so they have struggled with the DBE requirements.

In fact, this contractor, Dulles, did not meet the requirements. It's not listed as a DBE in the State of Maryland. It's not listed as a DBE in the State of Virginia. And it's not listed as a DBE in the Washington Metropolitan Area. Despite those shortcomings he is allowed to bid.

Further, on a project like this with lots and lots of federal dollars through FAA you also must have what's called an ACDBE, which is Airport Concession DBE. Airport Concession DBE, just so you know the first requirement is you cannot have assets or net worth of over \$750,000. Now if you add, you can do the math in your head, how many cabs that is, and how much that costs, and whether or not that

\$750,000, I'll tell you it's a whole lot more. In fact, the DBE we had shows that Mr. Massoud was at \$1.3 million which is nearly double the amount under the federal requirements.

Right in the contract or the invitation for bids, Section 21, Airport Concession, everyone under, because these are federal funds now. 29 CFR, Part 23 has to be a DBE.

LIEUTENANT GOVERNOR BROWN: Say that again one more time? Restate that?

MR. SINGLETON: I think I gave it to you in the packet.

LIEUTENANT GOVERNOR BROWN: Right, but just restate what you just said.

MR. SINGLETON: Is that Airport Concession in accordance with federal regulations, 29 CFR, Part 23, it's the administration's obligation to ensure that the Airport Concession Disadvantaged Business Enterprise have the opportunity to compete for available revenues at this Airport. There was not one ACDBE who applied, who could, who was qualified. Except, I will tell you, that the drivers themselves

formed a corporation, bid, and whose bid was turned down, if you heard last time from Ms. Goldstein, because it was faxed in rather than sent in.

Now despite that the MAA has worked diligently to try to cure all the problems with various contracts except the 300 or the 284 drivers who happen to own these cars. And many of whom, as the last speaker will tell you, are going to lose their jobs. Absolutely. In fact right now what happens is the contractor is allowed to set aside whatever amount they want in terms of their own cabs. In this case with Anne Arundel County they have set aside I think it is forty-two of their own that they own those cabs. That they are allowed to, even though the people want to buy the cabs they won't let them. You know, that's our money. And we're going to make more money off you as a lease person than we do off the other 282 drivers who are owner operators. Okay?

Now comes the new person. And he says, "Well what I'm going to do is immediately slice seventy-some odd jobs right off the top." Seventy, how many of you are here today from BWI?

(Applause)

MR. SINGLETON: And that's not including the overflow crowd who have to go in the, seventy of those people you have to look them in the eye and say, "Sorry, you are going to lose your job." And in addition what he is going to do is not take 282 cabs, or forty cabs, he said he is going to make 100 of the remaining cabs and make them his. So there won't be owner operators, they will be leased. Because he can make more money doing a lease than he can doing an owner operator. So there is nothing in this contract that says what configuration you want to do. He could fire them all. Say, "I've got 700 cabs. Good-bye, you are gone. I make tons more doing it this way."

Now when these guys put in the bid to try to get this contract that was turned down because it was five minutes late and faxed in, the amount of the bid was over \$12 million. Now if you see what happened in this case, Dulles bid \$7.1 million. BWI Taxi Management, \$6.1 million. On the price Dulles got it, not on all the other considerations or whether or not they were even qualified to bid. And that's a \$5



million spread between what these drivers would have done had you just let them do it as independent operators themselves.

There are so many problems. I, and I will first comment that between the last meeting and this meeting we've had productive conversations. We've had lots of cooperation from Dale Hilliard, who has been running the Airport, and Paul Wiedefeld, who has been wonderful. And they have all been very cooperative. But we've got a serious, serious problem here.

LIEUTENANT GOVERNOR BROWN: Okay. Sir, sir, any new information that you have?

MR. SINGLETON: Yeah.

LIEUTENANT GOVERNOR BROWN: Okay.

MR. SINGLETON: Just a couple of last, I mean, I've given you a packet --

LIEUTENANT GOVERNOR BROWN: Yep.

MR. SINGLETON: -- of information. And I think the ultimate problem, let me just see if I've covered all of the points, is that we've come here. You know we can tell you story after story about

exploitation. If you want to see, if I can approach just for a minute?

LIEUTENANT GOVERNOR BROWN: But what is this? Why don't you describe this first? Why don't you tell us what this is?

MR. SINGLETON: The amount fees that these drivers pay in addition. Stand fee, \$169, less voucher, \$159. There are constant other fees so that these people were making, as you know and as I alleged last time at this hearing, were making in some cases less than minimum wage for the year. And still do. And now they won't be making less than minimum wage if you select Dulles Airport because they just won't have jobs and won't be making any wage because the remainder of those jobs, I will guarantee you, will be brought up from Dulles.

In fact, what Dulles was so, Mr. Massoud was so fearful of these people coming today he said, "Listen, you've got to show up at the Marriot Courtyard, 10:00, and you've got to fill out applications. If you are not there, you are not getting a job." Well, these people wanted to be here.

So I said to these 300 people, I said, "Don't you dare show up one or two. All of you do not go, you know, if you are going to risk losing their jobs, you are going to risk losing your jobs. But let these people hear about your plight." So they are not only exploited, but they are very brave people. Thank you.

LIEUTENANT GOVERNOR BROWN: Thank you, Mr. Singleton.

(Applause)

LIEUTENANT GOVERNOR BROWN: Okay. Let us, okay, now so next we have, although who are you, sir? I'm sorry.

MR. YEMENU: Samson Yemenu.

LIEUTENANT GOVERNOR BROWN: Are you also BWI Taxi Drivers?

MR. YEMENU: Yes.

LIEUTENANT GOVERNOR BROWN: Okay. I'm, sir, I'm not going to be able to hear from you right now. And, I mean, let me just say this. Do you really have new information that you are going to provide this Board?

MR. YEMENU: Yes, sir.

LIEUTENANT GOVERNOR BROWN: Okay.

MR. YEMENU: For one thing we have applied for the ACDBE, the letter is right here, Department of Transportation.

LIEUTENANT GOVERNOR BROWN: Okay. If you, I have, we have it written here but can you just identify yourself for the record? And who you are with?

MR. YEMENU: Yes, sir. My name is Samson Yemenu. I am a BWI Taxi Driver. And I am the President of COABA, Cab Operators Association of BWI Airport.

LIEUTENANT GOVERNOR BROWN: Welcome, sir.

MR. YEMENU: Thank you. About this payment that BWI Taxi Management is charging. They say it's \$169. Yes, on the IFB it is \$169 actually. But they charge \$527 for the lease drivers.

LIEUTENANT GOVERNOR BROWN: For the what?

MR. YEMENU: Lease drivers.

LIEUTENANT GOVERNOR BROWN: Lease drivers? And what, \$520-some drivers how often?

MR. YEMENU: Every week.

LIEUTENANT GOVERNOR BROWN: So each driver gets, are you telling us what the weekly fees are?

MR. YEMENU: Yes.

LIEUTENANT GOVERNOR BROWN: Because we had some questions and concerns about it.

MR. YEMENU: Yes.

LIEUTENANT GOVERNOR BROWN: So you are telling us right now what the weekly fees are to a driver at BWI?

MR. YEMENU: Right.

LIEUTENANT GOVERNOR BROWN: Okay, so you're on. \$169 is one. What's the next one?

MR. YEMENU: \$169 for owner operators. Two, \$527 for lease drivers. And third one is \$269 for second drivers.

TREASURER KOPP: For what?

LIEUTENANT GOVERNOR BROWN: For what drivers?

MR. YEMENU: Second drivers.

LIEUTENANT GOVERNOR BROWN: Second drivers?

MR. YEMENU: Yes.

LIEUTENANT GOVERNOR BROWN: What's a second driver?

MR. YEMENU: The second driver is a driver who leases a car from the owner operator.

LIEUTENANT GOVERNOR BROWN: Oh, okay. Right. So you got to, you may be driving it yourself five days a week. And maybe you have a second driver driving it two days --

MR. YEMENU: No, no, sir. No. The second driver is a permanent driver --

LIEUTENANT GOVERNOR BROWN: Uh-huh.

MR. YEMENU: -- that will take over the owner operator for any reason and drive permanently. Some of them have been driving for three years --

LIEUTENANT GOVERNOR BROWN: Oh, I see.

MR. YEMENU: -- two years, five years.

LIEUTENANT GOVERNOR BROWN: Okay.

TREASURER KOPP: Is that in addition to the five hundred --

MR. YEMENU: The \$527 added is described here on the receipt. It says, "Stand fee, \$169."

TREASURER KOPP: Right. A stand fee everyone pays, right?

MR. YEMENU: Everybody pays.

TREASURER KOPP: Okay.

MR. YEMENU: And lead or plain fee, that is nothing. Second, LEMI, I don't know what that means, \$358.

LIEUTENANT GOVERNOR BROWN: No, no, no. I'm sorry, sir. No, no. No, no, no. No, no.

MR. YEMENU: \$358.

LIEUTENANT GOVERNOR BROWN: So look, this is not a fee case, here. Okay? We are not establishing fees. What other fees do you have to tell us about?

MR. YEMENU: Other than these three fees?

LIEUTENANT GOVERNOR BROWN: Yeah --

MR. YEMENU: There is no in additional other than these three fees.

LIEUTENANT GOVERNOR BROWN: Three fees?

MR. YEMENU: These three fees have to be paid every week.

LIEUTENANT GOVERNOR BROWN: Mm-hmm. Now --

MR. YEMENU: If you don't pay this, you will be paying \$10 if you are one day late.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MR. YEMENU: And then \$20 if you are one day late, or two days late or more.

LIEUTENANT GOVERNOR BROWN: The \$169 is a stand fee. The five something, \$520 is what?

MR. YEMENU: The five hundred, there is a \$358 charge. Second, it says, LEMI. Nobody knows what it means.

AUDIENCE: \$527 is for people who lease from the company.

AUDIENCE: \$169 is included. Five hundred, \$527 --

LIEUTENANT GOVERNOR BROWN: Okay. Let's do this. Let's do this. Stop. Stop. Stop. I'm going to do this, and I just normally would not do this. But if you all could just look at one another and you decide who you think has the clearest understanding of fees. Would you please come to the podium and identify yourself? No, no. You turn around, you turn around and you all decide among yourselves whose got



the best understanding of fees. And let that person come to the podium. Okay, that's it. We've got Mr. Russell.

(Audience speaking.)

LIEUTENANT GOVERNOR BROWN: Stop. Okay.

Let me tell you right now. Let me tell you right now. I am going to clear the room. I am going to clear the room if I hear another outburst. Do you understand that? We, this Board of Public Works meets every two weeks. We only let people speak who sign up to speak. I am being very, I don't want to say generous because it doesn't belong to me, but I'm being very liberal, okay, with extending that to others because we need information. I don't need emotional outbursts. I don't need recommendations unsolicited from the floor. Is that understood? Okay. So I'm going to ask Mr. Yemenu --

MR. YEMENU: Yes.

LIEUTENANT GOVERNOR BROWN: -- since you have the floor and you signed up --

MR. YEMENU: Yes.

LIEUTENANT GOVERNOR BROWN: You tell me who you want to better explain fees. Do you want to do it or do you want another person to do it?

MR. YEMENU: I want to do it myself.

LIEUTENANT GOVERNOR BROWN: Okay, you do it and that's it.

MR. YEMENU: Yes. Yes.

LIEUTENANT GOVERNOR BROWN: Okay.

MR. YEMENU: I have briefly what the charges are here. Or we, or whatever. I will just give you the details. Okay? There are 264 drivers, owner operators. These 264 drivers pays \$169 per week. In a year they pay \$2,320,032, in one year. If you need a copy of it, I will be happy to give it to you. And there are second drivers, there are seventeen of them. Seventeen second drivers who pay \$269 per week, \$100 more. And they pay \$4,573 per week, and \$237,796 per year, and \$1,188,980 in five years. There are eighty in all, they call them lease drivers. There are forty-three of them. Each one of them pay \$527 per week. And they pay \$22,661 every week, \$1,178,372 per year, and \$5,891,860 in five years.

In total BWI Taxi Management collects payments in the amount of weekly \$71,850. Yearly, \$3,736,200. And in five years, \$18,681,000. All these are paid by the drivers.

LIEUTENANT GOVERNOR BROWN: Okay, thank you. That's on the fees. Do you have other information that you wanted to present?

MR. YEMENU: Other information that I have, if we are given this, if we are to run this business, it will cost us, we will collect, we all pay \$169 for a stand fee, all 324 of us. And that will, we will be collecting \$54,756 per week, all of us. And then \$2,874,312 in four years. I mean, \$14,236,560 in four years, the \$2 million is in a year. So from this \$14 million if we pay \$12 million to the contract, to the State, we have \$2 million left to run this business efficiently. And we have presented our proposal to the Secretary of the State. We did went over it, and we have a copy of it here if you need it. So we are asking this Board to give us a chance. They say there are 80 percent owner operators. Why don't there will be 100 percent owner operators? Why not?

(Applause)

MR. YEMENU: Why this Board does not allow, why this Board doesn't allow the drivers to own their own business and then manage it? Why do they need a second hand to manage the business for the drivers? Because the drivers who are doing all the jobs, customer service? The drivers. Collecting the money, paying the money? The drivers. Investing on the vehicles? The drivers. Paying the insurance? The drivers. Pay the taxes? The drivers. All the money, all this \$18 million came from the drivers. And it is a way of exploitation for this management simply.

LIEUTENANT GOVERNOR BROWN: Okay, Mr. Yemenu. Thank you very much. Do you have any additional information that you need to provide us?

MR. YEMENU: Additional information? Again, I would ask this Board sincerely to consider the bid to be given to the drivers themselves. Thank you very much.

(Applause)

LIEUTENANT GOVERNOR BROWN: Now just so that I understand, what is your relationship to Mr. Singleton?

MR. YEMENU: Mr. Singleton is a lawyer for COABA, Cab Operators Association of BWI Airport.

LIEUTENANT GOVERNOR BROWN: So does Mr. Singleton represent BWI taxi drivers?

MR. YEMENU: COABA, Cab Operators, COABA.

LIEUTENANT GOVERNOR BROWN: Okay, so I've got some wrong information. Mr. Singleton, who do you represent?

SECRETARY MCDONALD: It was a generic taxi drivers --

MR. YEMENU: Cab Operators Association of BWI Airport.

LIEUTENANT GOVERNOR BROWN: Oh, oh, so Samson Yemenu, who do you represent?

SECRETARY MCDONALD: Could you give the name of that association again? The Cab Operators --

MR. YEMENU: Cab Operators Association of BWI Airport.

LIEUTENANT GOVERNOR BROWN: Got it.

MR. YEMENU: We are BWI Airport taxi drivers.

LIEUTENANT GOVERNOR BROWN: Cab Operators Association --

SECRETARY MCDONALD: Right. And Mr. Singleton is counsel to that Operators Association.

MR. YEMENU: Mr. Singleton is counsel to us drivers, yes.

SECRETARY MCDONALD: And I am sorry, but where it says BWI taxis that's generic on your form.

LIEUTENANT GOVERNOR BROWN: Okay. Okay. Hold on. Mr. Singleton represents, just tell me if I'm right or wrong, the Cab Operators Association of BWI.

SECRETARY MCDONALD: Correct.

LIEUTENANT GOVERNOR BROWN: Okay. Mr. Yemenu?

MR. YEMENU: Yes, sir.

LIEUTENANT GOVERNOR BROWN: You are a member of the Cab Operators Association of BWI?

MR. YEMENU: Yes, sir.

LIEUTENANT GOVERNOR BROWN: Okay.

MR. YEMENU: I am the President.

LIEUTENANT GOVERNOR BROWN: Now -- okay, gentlemen, I don't really need to hear from you one more time. If I hear you one more time I'm going to ask you to leave the room, do you understand that? Okay, so you are a member and the President --

MR. YEMENU: Yes, sir.

LIEUTENANT GOVERNOR BROWN: -- of the Cab Operators Association of BWI. And so you are here in that capacity?

MR. YEMENU: Yes, sir.

LIEUTENANT GOVERNOR BROWN: Now the reason why I'm asking this --

MR. YEMENU: Yes.

LIEUTENANT GOVERNOR BROWN: -- and the reason why I'm asking for your patience so I can get it clear is because what Mr. Singleton asked the Board to do is different than what you are asking the Board to do.

MR. YEMENU: Okay.

LIEUTENANT GOVERNOR BROWN: So I just want to be clear, Mr. Singleton asked the Board to

disapprove the award, okay, to Dulles Airport Taxi and send it back with some specific instructions on what the process ought to look like. But you are asking for something different. You are asking for us more like what, what BWI Taxi Management did, you are asking this Board to actually award it to the Cab Operators Association of BWI?

MR. YEMENU: Right. According to --

LIEUTENANT GOVERNOR BROWN: Is that correct?

MR. YEMENU: Yes, sir, according to the, Mr. Singleton is trying to say this bid is not open according to the rule of law. So we want it to be open according to the rule of law and be awarded to the drivers.

LIEUTENANT GOVERNOR BROWN: Got it. Okay. Thank you very much.

MR. YEMENU: Thank you, sir.

LIEUTENANT GOVERNOR BROWN: Okay. So the next, and then we are going to come back to Mr. Wiedefeld here. But the next, and you weren't signed up, but because we are extending and accommodating all interest, we are allowing one representative for



Yellow Taxi to present today. So flip a coin, arm wrestle, decide it how you may. Come to the podium, identify yourself, and present, please.

SECRETARY MCDONALD: There's a little bit of a problem. We have our internet camera here that you are about to dislocate. Yeah, I think. Away from the camera I think, yeah.

MR. JOSEPH: Good morning, Governor Brown, good morning, Comptroller Franchot, good morning, Treasurer Kopp. I'm sorry that we were not signed up. Thanks for seeing us today. Our request -- I'm Mark Joseph and I'm the CEO of Veolia Transportation, North America. And our request is I think a bit simpler. Not easy, but simpler. And that is that we would ask this Board to direct the Maryland Aviation Administration to apply the same standard, the same process that they applied on reviewing and qualifying our luxury limousine bid to the taxi bid. It was the same procurement agent. The same process. The same named ACDBE in both cases. And if you, if they will look at it and apply the same standard we believe in forty-eight hours with whatever questions they may

have that we can provide them, that we will qualify, as we did in the luxury limousine bid. And then when you open our envelope you will find that our proposal, our dollars to the State of Maryland, are substantially higher and in the State's best interest.

Now with me today, since I will be the only speaker, I would just like to acknowledge that we have our counsel, Scott Livingston. We have in addition to our government affairs representative and partner, a minority partner who is in, who is our partner in Prince George's County, Steve Proctor. We have Kenny and Gaye Gordon who are the owners of Nissi, who are approved ACDBEs proposed on this bid. And we have Ray Nelson, our General Manager, who is our proposed GM who has been with our company for twenty-four years. He currently operates the 240 taxis at Dulles. We also have a number of drivers who came over who had worked for the proposed awardee and who now work for our company who can vouch for the difference in quality and performance in our business.

I would just like to talk to you briefly about, first to introduce Veolia and Yellow Taxi

Association. We have been in Maryland for 100 years. We are the oldest and largest taxicab operator in this State, and we are one of the largest in the country operating taxicab companies not only in Maryland and Virginia at Dulles. We operate in Kansas City, Pittsburgh, Denver, and many other cities as well.

We have great respect for the MAA and the procurement process. Key to our success for these past 100 years has been solid values, understanding how to grow a business, and how to work through various procurements. And in particular the value of having minority partners in growing our business. We were the company, the first company in Maryland, to break both the color barrier and the gender barrier in Yellow Taxi --

LIEUTENANT GOVERNOR BROWN: Mr. Joseph, let me just interrupt here. I know we appreciate your history of the company and your commitment to DBE.

MR. JOSEPH: Mm-hmm.

LIEUTENANT GOVERNOR BROWN: But I'm just going to have to ask you, please, to jump right in to the matter in front of us. We will accept that, you

know, we know where you are going with this and we recognize that you guys have done a whole lot in this area and we appreciate that.

MR. JOSEPH: Here's the, this morning Treasurer Kopp asked a question, why does this take so long?

SECRETARY MCDONALD: I think we're going to need you at the microphone. I'm sorry, I don't know if you can pull it up?

MR. JOSEPH: I just want to show them --

SECRETARY MCDONALD: I know, but they are not going to catch any words on the record.

MR. JOSEPH: Okay. So the Treasurer, I'll point from here, and you can look. Treasurer Kopp asked a question, why does this take so long? And why do you need so many chances to do the, to get it right in terms of these revisions? On the last, we have the benefit of the testimony that was presented by the Assistant Attorney General Louisa Goldstein on the 23rd of March when there was a request to extend this contract by one year. At that time Comptroller Franchot asked a similar question. Why does this take

so long? Why are we extending this? It's been extended once for twelve months. Now you are looking for another year. The year became six months, and then it ended up being three months, a three-month extension.

The response was from Assistant Attorney General Goldstein, "While I respectfully submit that the issues related to Airport Concessions DBE analysis, some people suggested they would use dispatcher services to meet that. Some people suggested fuel purchases. Some said other ways of doing it. They suggested they were not certified or had not been certified. We had to substitute to DBEs, or they had to substitute, excuse me. There was one proposal about ownership cabs by minority people and the cabs met various provisions. That MBE or DBE was acting independently from another bidder and we had to make sure that the federal regulations are met."

Treasurer Kopp then asked a question, "Louisa, are you saying it takes two years to do what you just described?" This is on the 23rd of March. And her response is, "No, I don't think it does take two

years, Madam Treasurer. But I would say that you, in this case, that there were circumstances that made it more difficult to do this analysis. And I don't want to talk about the bid process too much because it is still going on." And she says there were technical differences in the submissions. We had different responses in June, August, and December regarding this.

So the issue here is that this is not an exact science. There are many approaches. And you've heard it this morning, many different approaches to how someone satisfies a very important requirement for meaningful participation. We start out with all known DBEs who we have done business with for many years. And we put in, as you will see on the, there are two bids that are submitted. One in August of 2010 for a luxury car, and one in May of 2010 for the taxicab bid. Both of them have a DBE proposed named PEI who does business with us and who was our manager of the concession at the Airport for the staffing and the desk. And this was a known company to us.

So we submitted this known company with an important role to manage that staffing function, similar to what goes on now at the desk and to achieve the 15 percent requirement. During the course of this we were told that this company, that the owner had retired and there's a reorganization with the daughter and the son-in-law, and it's not going to work. They need to get recertified. They need to become an ACDBE. We say, "Okay, we have another idea." We have a, one of our owners who owns eleven vehicles in our company, a fleet owner, Teddy Green, we'll put him in. He can operate forty taxicabs at the Airport. This is a meaningful role, an important role, and we submit Teddy Green. We're told no, that doesn't work --

LIEUTENANT GOVERNOR BROWN: Teddy Green was certified?

MR. JOSEPH: He was a certified DBE in Maryland but not an ACDBE, he would have to be confirmed.

LIEUTENANT GOVERNOR BROWN: Yeah, he could do that, right?

MR. JOSEPH: Right. And the process calls by the time of award you must be certified as an ACDBE. Finally, we're told no, that's not going to work. So we submit a third revision and in the third revision we say, "If PEI doesn't," our original company who was already working with us, "does not get their ACDBE in time we have an approved ACDBE, Nissi, Kenny and Gaye Gordon. They are already approved. They have tremendous experience. And we've put them in as our backup plan." Now what happens is --

LIEUTENANT GOVERNOR BROWN: What function do they serve? Are they like --

MR. JOSEPH: To do the same thing PEI would do, to run the staffing, the desk. They have fifteen positions. It's an important role. To be our, to be the curb ambassadors. To manage the desk, to do the cashiering, all the office functions. And Nissi is a company we do business with in Prince George's County. They have thirty employees in Prince George's County working with us on our transit contract there.

Here is what we don't understand. If you look at the yellow boxes on this chart in front of



you, on January 20, 2011 we sent our second revised ACDBE stating this, that we have PEI Staffing and Nissi as the alternative. The day before, on the 19th, we submit our third revision for PEI Staffing and Nissi as the alternative. One day apart we submit both of these. And in it we say, "This is what they are going to do. This is how it's going to work. It's a similar approach." Very quickly the same procurement person at MAA comes back to us on the 4th of February and says, "A-ha, we accept Nissi, that they are an approved ACDBE. We accept them on your luxury bid. And we need more detail about exactly what they are going to do." We say fine. We turn that around in thirteen days per their request. On the 17th you can see at the top?

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MR. JOSEPH: We give the detail on the Nissi arrangement. We, then we are told a month later, "We need you only to do one last thing. Eliminate the other DBEs. We're sticking with, we want you to stick with Nissi. They are the ones qualified. Stick with them. Drop the other ones so it's completely clear."

We do it and we submit that one week later. It's clear. And we're awarded this contract. We're awarded, we qualify, we're reasonably susceptible, we're made acceptable, we do everything we have to do to revise it in a timely fashion.

TREASURER KOPP: But it's a different contract.

MR. JOSEPH: It's a different contract with the same procurement agent, the same standards, the same agency, and with our same plan that works for the luxury limousine as the taxi. We don't understand how one gets the attention one week after we deliver it, or two weeks after we deliver it, it gets the attention, it gets the follow up, it goes through the process. Now --

LIEUTENANT GOVERNOR BROWN: What does Nissi do for the luxury car piece?

MR. JOSEPH: The same thing.

LIEUTENANT GOVERNOR BROWN: Well what is it?

MR. JOSEPH: Staff the desk, manage the curb, manage all the activities at the Airport.

LIEUTENANT GOVERNOR BROWN: And what percentage is that?

MR. JOSEPH: Fifteen percent.

LIEUTENANT GOVERNOR BROWN: And what were you proposing -- what's that?

TREASURER KOPP: The different size is quantitative, right?

MR. JOSEPH: Yes, it's the same. The taxicab concession is a much larger contract. We pay --

TREASURER KOPP: That's what I'm saying. How much larger?

MR. JOSEPH: Pardon?

TREASURER KOPP: How much, I mean, is it qualitatively larger?

MR. JOSEPH: Four times larger? But the percentage, this percentage holds.

TREASURER KOPP: Yeah.

MR. JOSEPH: It's four times as many jobs. If it's fifteen jobs to staff all of the taxi operations versus four jobs to staff the luxury limousine desk, it's --

LIEUTENANT GOVERNOR BROWN: Is that what it is? Four for the luxury and it would be fourteen for the --

MR. JOSEPH: Fifteen for the taxicab concession. I don't know the exact number on the --

LIEUTENANT GOVERNOR BROWN: So we're not talking about going from four to like a hundred.

MR. JOSEPH: No, no. It's a, it is the role that the, that I believe that the incumbent operator has a DBE performing now. It's a very logical role, an approved role. And it's an important role because it's the face of our business at the Airport for all of those customers. What I don't understand is on the 23rd when you are being told, "We need an extension for a year," or six months, or three months, we are still working on this. We are still trying to get ACDBEs. We are still trying to get this coordinated. And that's a good thing. They are doing the right thing. The agency is doing the right thing.

Why are they doing the right thing? Because they are getting more competition by getting more people approved. And ultimately in a two-step process

where as many people who qualify technically then you open as many envelopes as you can and you get the highest price for the State of Maryland. We don't understand how we were rejected on one, and why there was radio silence from the 20th, from the 19th of our submission there was radio silence when this was, should have been equally, same plan, same approved ACDBE, and it should have.

This morning Administrator Wiedefeld said, "At some point we had to stop." That we had a number of chances, we had to stop. I don't understand at what point that stops. I certainly don't understand why we were asked for this revision and why the one didn't stop, and the other one did stop. And I suspect that there is a reason for that, why one stopped and the other didn't. All I ask today, respectfully, is that if you give us forty-eight hours we will submit everything that we submitted on this other one. You will have it. And our legal counsel tells us that we can qualify, we will qualify. And then if you open our envelope and we are the highest bid, and we are the best value for the State of

Maryland, we are a Maryland business, we've been here for a hundred years. That's all we ask. Thank you.

LIEUTENANT GOVERNOR BROWN: Any questions?

COMPTROLLER FRANCHOT: So you would pay more money?

MR. JOSEPH: More than seven figures.

COMPTROLLER FRANCHOT: Okay. And then what about your history of working conditions for people who that doing the driving?

MR. JOSEPH: I can tell you that this is, you've heard many, many complexities about this business. We are the most successful cab company in Maryland and one of the best in the country and got to be one hundred years old when less than one percent make it to fifty years. Because I learned from my father who was in the retail business that our drivers are our customers. Without the drivers we don't roll. So we have a success, a track record. And the majority of our business is owner operators who provide service. We also have lease drivers but we understand the value of owner operators.

LIEUTENANT GOVERNOR BROWN: What percentage, did you propose a percentage within your -- I mean, let's not talk about yours. Yours isn't opened, right? That piece is not public, right?

MR. JOSEPH: Right. All I can tell you --

LIEUTENANT GOVERNOR BROWN: You don't have to tell me anything. If it's in that envelope I don't need to hear about it.

MR. JOSEPH: Okay.

LIEUTENANT GOVERNOR BROWN: Is there any comparables though that you can give me in terms of, is there any comparable?

MR. JOSEPH: I can tell you the vast majority --

LIEUTENANT GOVERNOR BROWN: Is there any?

MR. JOSEPH: We believe in a balanced approach but the vast majority would be owner operators. The problem is in this case you are reducing the number of taxicabs from 350 or 360 down to 250, and you have to figure out how you are going to get the coverage to serve the, there's two people here. There are the drivers, but there are also the

riders. The passengers who are going to use those taxis. And you have to make sure you have coverage, and that you are going to provide good service. So we believe we balanced between protecting the drivers, protecting the owners, and serving the public.

LIEUTENANT GOVERNOR BROWN: Any questions?

Okay, thank you very much. And Mr. Wiedefeld I'm going to give you the, and you know, absent questions from the Board, I'm going to give you the last word on this issue, on this item.

MR. WIEDEFELD: I think, I mean, as you saw today it is an extremely complex contract. A lot of different views on how to do this. You know, as an agency, you know, we have to fall back on the process and follow the process because we have so many competing interests here. And that's what we try to do, to the best of our ability, is to present a fair process, a logical process, reached a conclusion, and then made a decision. And that's what we bring to the Board for our recommendation.

LIEUTENANT GOVERNOR BROWN: Can you, can you characterize or explain or distinguish, address the



point that Mr. Joseph made about the different, now Mr. Joseph said DBE standard, but I don't think it's necessarily a DBE standard but the process? I mean, Mr. Joseph took us through the luxury car where you went all the way to completion, and then on the bottom of his chart there was from January 19th until the rejection in April there was, there appeared to be no back and forth on trying to achieve an acceptable DBE response. Can you describe --

MR. WIEDEFELD: Sure.

LIEUTENANT GOVERNOR BROWN: -- that difference?

MR. WIEDEFELD: Throughout the whole process, again, what we look for is someone a, you know, the DBE or not? Does it meet that standard/do they have to get their ACDBE, which he described? In the first case, you know, the PEI firm graduated. So they were no longer in the game because of that. So they had to go back and do that. We were looking at all the contracts, so the panel was looking at everything and they are working with every contract to say, "All right, this is what we need." And we had

gotten to that point where everyone had gotten to their fourth, you know, submission. And that's what we were looking at, is the final. And we had, at that point we had two acceptable contracts. And we were like, "Okay, do we go back another time to the other two to keep going back? When do we stop this?"

It just so happened when we met on the 23rd here to ask for the extension was actually when the panel was meeting. And they were making their decision just because they were making their decision. Because that's what panels do. They've got a ton of information. They've got all these different points of view of how to do this. And they are not, they are not focused on one particular firm one way or the other. They are just looking at, you know, "Does it meet the standard? Does it meet what we are trying to get to?" And they just made their decision because that's what they had in front of them. And that's what they did.

In the case of the, in the last submission from Yellow, basically we had two firms, and it was Nissi and Health Home, of which they said either/or

could provide the 15 percent. Well that's, that doesn't, there's nothing we can get our arms around with that. You know, it just, it wasn't there. And again, that's where the panel got to. They had the information in front of them and they had to make a decision, and they made it.

LIEUTENANT GOVERNOR BROWN: Okay, so thank you very much, Mr. Wiedefeld. So are you ready?

MS. CHILDS: Yes.

LIEUTENANT GOVERNOR BROWN: Good. I don't, what we are going to do is we are going to table this item. We're going to pick up the rest of the Board of Public Works, and then go into closed session on Item 8 on MDOT with our attorney just to make sure we're clear on what our options are. Not in terms of the merits, but procedurally. And then we will come back out and we will close out Item 8 of the MDOT.

So for those of you who are here on Item 8, if you want to take a break you can certainly leave at this time. And we are going to come back in soon after we finish the rest of the calendar, which typically can take us thirty-plus minutes. It can

take us thirty-plus minutes. So why don't we just take a three-minute break right now? Let's recess for three minutes just so if there is any movement in the room we can do that. And then we will reconvene in three minutes. Okay.

(Short recess)

LIEUTENANT GOVERNOR BROWN: Okay, thank you very much for your patience. Why don't we pick up the Secretary's Agenda?

SECRETARY MCDONALD: Good afternoon, Governor, members of the Board. We have twenty-one items on the Secretary's Agenda this morning. They are all good.

(Laughter)

LIEUTENANT GOVERNOR BROWN: Okay. Does the Comptroller have anything on the Secretary's Agenda, or the Treasurer? Hearing none, seeing none, the Comptroller moves approval, seconded by the Treasurer. All those in favor say, "Aye."

THE BOARD: Aye.

LIEUTENANT GOVERNOR BROWN: Any opposed?

(No response)

LIEUTENANT GOVERNOR BROWN: Hearing none, the Secretary's Agenda is approved. Let's go to Program Open Space.

MS. LATHBURY: Good morning, Governor, Madam Treasurer, and Mr. Comptroller. Meredith Lathbury for the Department of Natural Resources. We have four items on the Agenda this morning. I'll be happy to answer any questions.

LIEUTENANT GOVERNOR BROWN: Anything? Anything? No? Okay, the Comptroller moves approval, seconded by the Treasurer. All those in favor say, "Aye."

THE BOARD: Aye.

LIEUTENANT GOVERNOR BROWN: Any opposed?

(No response)

LIEUTENANT GOVERNOR BROWN: Hearing none, the Program Open Space Agenda item is approved. Congratulations. Next, Department of Budget and Management. Good morning, good afternoon, Madam Secretary.

MS. FOSTER: Good afternoon, Governor, Madam Treasurer, Mr. Comptroller. There are twenty-one

items on the Department of Budget and Management's Agenda for today. And again, I'll be happy to answer any questions.

COMPTROLLER FRANCHOT: Item 6? Is Secretary Sharfstein here or anybody from his --

MS. FOSTER: Yes. Item 6 exercise a one-year renewal option for a statewide administrative services organization to manage the publicly funded mental health services for individuals who are in the public health system. And we have the Deputy Secretary of the Department of Health and Mental Hygiene.

MR. KIM: Good afternoon, Mr. Lieutenant, Madam Treasurer, Mr. Comptroller. My name is Thomas Kim. I'll be happy to address your questions.

COMPTROLLER FRANCHOT: Great. I don't want to reopen an old issue, the Upper Shore Community Mental Health Center, but I would like to ask about the challenges, I guess, of when we, when that was done by the Board over my objection it was presented as a new model of community-based mental health treatment. And I guess I'd like you and/or the

Secretary at some point to get back to the Board as to how that model is working since this is the group that I take it was included in the, in that model. And it brings up the issues of is that community-based model the right model? Is it going to be properly funded? Are we going to be able to accommodate new patients under that model? And what that, what the impact of quality of care is for dual diagnosis patients, patients that have both substance abuse and mental health problems? And I don't want to go into a long discussion here, but if you could speak to the Secretary and indicate that any data that you have that reflects as far as cost management and patient treatment under this new paradigm, I would like to see, and please share it with the other Board members or anyone else who is interested.

MR. KIM: Certainly.

TREASURER KOPP: Could I just build on that for a moment? As you know, it was a new paradigm for the Shore. It's the old paradigm for the rest of the State. And we have seen over the years how this shift has worked in the rest of the State. The question,

and I don't think you were here, the question was also whether the Shore, because of the dynamics of the Shore, the limited number of health providers, the number of, whether a paradigm for one part of the State would not fit another part. That was the question. And the action we took was based on the hope that in fact it would work. But I think the question that the Comptroller raises is a very pertinent and really important one. And I would like just to know whether in fact we have to shift the paradigm, as he put it? Because it is the Shore?

MR. KIM: Sure. I understand the questions.

TREASURER KOPP: So not just a generic question, but a specific question.

COMPTROLLER FRANCHOT: Thank you. And I'll also say, I was very critical of this company back when all this was debated, and I'm not sure I've been proven wrong. But I understand that they have received, they've had a successful relationship so far with all of the people that were complaining about them. And maybe that's just because we asked a lot of questions. But I'm please to see that. Now I want to



see if I can, as the Treasurer mentioned, just some data that are specific, I think, that's appropriate to the Eastern Shore.

MR. KIM: We'll be happy to share that with you.

COMPTROLLER FRANCHOT: Good. Thank you very much, Madam Treasurer, for focusing that. And I had another item if, just quickly, Item 11-S, 12-S, 13-S, and 14-S.

MS. FOSTER: Okay --

COMPTROLLER FRANCHOT: That series of contracts, Madam Secretary?

MS. FOSTER: Certainly. Item 11-S is a request to provide six months more time to allow for the completion of the procurement of the new inmate medical contract. Item 12, again, is a request to provide six months more time to allow for the completion of the procurement of the new inmate mental health contract. And Item 13 is again a request to provide six more months to allow for the completion of the procurement of the new utilization review and management services contract. Thomas Sullivan from

the Health Department is here, if he's not gone?

Good, here he is.

MR. SULLIVAN: Good morning, panel. The Department of Public Safety and Correctional Services, not the Department of Health. But we're in the Health business of our Department, thank you. Good morning.

COMPTROLLER FRANCHOT: Well, Madam Secretary, I commend you for taking, I guess, a leadership role in this contract. I think it's a little unusual because A, the size, and B, that it's, you know, you're assuming control over it from your agency. I guess the question I have is this just a kind of a solitary incident here? Or are we going to be seeing more of these in the future?

MS. FOSTER: Well I think in this case these were procurements that the Department had had some issues with. We wanted to provide some assistance so that we could get them underway. Again, we are dealing with contracts that are very complex. They are multimillion contracts which, again, they are always controversial. So in a vein in terms of providing some support to the Department of Public

Safety our procurement team has been working with them to finalize this procurement. And it has in the end proven to be quite difficult. We do anticipate going out with the procurements in the immediate future. But I don't know at this point whether I'm ready to say that we're going to continue to take these on. I think the Department has had some staff changes and, again, they will be able to do some of these things going forward.

MR. SULLIVAN: I would agree. And I would also like to go on record that the relationship with the Department of Budget and Management in going through this procurement has been a slow process and it has been a detailed process but the cooperation and the collaboration has really been fantastic. And I am really confident that the end product that we put out, because of the dollar amount we're talking about, is worth the extra effort and the extra review.

COMPTROLLER FRANCHOT: Okay. And so Madam Secretary, you are going to be in charge of the procurement with the help and assistance of the agency that actually implements it?

MS. FOSTER: We have been working, we have been taking the lead on the procurement. And obviously it is an inmate medical contract. We don't have expertise in that area. So we have been working with staff from the Department of Public Safety and Correctional Services who do have that expertise and who oversees this contract.

COMPTROLLER FRANCHOT: Okay. And have there been protests on this? What is the history of this?

MR. SULLIVAN: There were some protests when we had gone to initially award the RFPs, which resulted in those RFPs, and other issues with the RFPs, being pulled completely and going through the process from the start, where we are going to have new RFPs, new bids. I believe there is still one protest or two protests pending in front of the Board of Contract Appeals. And those are multilayered. The main issue is some of the companies felt that we should have made the award, and particularly to the companies that were in line for that award would have liked to have seen it, you know, go in their

direction. So they are appealing that decision to go ahead and issue new procurements and new RFPs.

COMPTROLLER FRANCHOT: My request, Madam Secretary, and it's just a, it's a low key request, is that to the extent there are suggestions from the private sector about how to do these contracts more efficiently, and you see those, if you could review any and all of those suggestions? And adopt the ones that make sense, and reject the ones that don't. But hopefully out of all of this background, I guess, to this if you could take another look at how we do this most efficiently for the taxpayers, and whether or not there aren't efficiencies to be adopted in the face of the --

MS. FOSTER: Let me be clear. I think, you know, that we are constantly reviewing how to do these better. I think one of the reasons why we didn't insist in terms of going forward was, and it has taken this long, is because we are really taking a detailed and thorough look at this contract. We are looking at how it can be improved. We are looking at how it can be made more efficient. And we are looking at how it

can be made overall more competitive. So I am right with you in terms of doing those things.

COMPTROLLER FRANCHOT: Good. No, I didn't mean to imply otherwise. I'm just asking you that since you are now taking control of this with the agency underneath you that you --

MS. FOSTER: We'll be happy to do so.

COMPTROLLER FRANCHOT: -- adopt whatever savings are appropriate.

MR. SULLIVAN: And an important part of that same question for the record, I just spend time with the ACA at a national conference for healthcare administrators. It was a confidential conference with no bid or no bidder influence. It was strictly for us to compare what other states are doing. And leaving that conference I feel more confident in the procurement and in the RFPs that we are about to put out in terms of being consistent with what other states are doing and being some of the most cost effective and innovative ways to move forward. And we also had people from the federal government going through the Healthcare Reform Act to see how that's

going to impact on future spending and future availability of federal funds. So going to these conferences and keeping open communication with the other agencies that are helping us with these RFPs, I think it's really been working well. And that left me with a lot of confidence that we were on the right track when I saw some of the national trends.

COMPTROLLER FRANCHOT: Thank you for that. And I also just wanted to note Item 4 -- a separate matter, I'm happy with that response.

MR. SULLIVAN: Thank you.

COMPTROLLER FRANCHOT: But Secretary Abed is doing exactly what he promised he was going to do.

MS. FOSTER: Yes, he did.

COMPTROLLER FRANCHOT: And I appreciate that.

MS. FOSTER: He's doing a great job.

TREASURER KOPP: I just, I have a general question about, a related question about Item 10. Is there anyone here who can, RGGI, who can talk about RGGI for a moment?

MS. FOSTER: Actually, the Secretary had to leave but Terri Wilson is here from --

TREASURER KOPP: My question is really just an update on RGGI, and the impact of New Jersey, of the governor pulling out? It's not this contract, which seems fine.

MS. FOSTER: Terri Wilson is here. I'm going to ask Terri to come up and address that.

TREASURER KOPP: If she, if you feel comfortable doing that. Otherwise --

MS. WILSON: Hi, I'm Terri Wilson. I'm with the Department of the Environment. We had a conference call yesterday to address the New Jersey decision --

TREASURER KOPP: I can't hear you.

MS. FOSTER: Could you speak into the --

MS. WILSON: -- pull out of the RGGI Incorporated. And what they've decided to do is there's going to be a systematic withdrawal over the next twelve months. We can provide some information because it's still, it's really just started.

TREASURER KOPP: Okay, great.



MS. WILSON: Okay?

TREASURER KOPP: I'm just curious about it and what the impact is on RGGI and on the State of Maryland?

MS. WILSON: They don't expect it to be much impact on the State of Maryland. RGGI, New Jersey was 12 percent of the auction. They don't expect it to be much of an impact.

TREASURER KOPP: Really?

MS. WILSON: Maryland is 20 percent, 21 percent.

TREASURER KOPP: Really? That's interesting.

MS. WILSON: We can provide other information.

TREASURER KOPP: Yeah.

MS. WILSON: Our air directors are at a meeting, and --

TREASURER KOPP: Okay, if you could. Thank you.

LIEUTENANT GOVERNOR BROWN: Any other items of interest or concern on the Department of Budget and

Management's Agenda? Okay, if not the Comptroller moves approval, seconded by the Treasurer. All those in favor say, "Aye."

THE BOARD: Aye.

LIEUTENANT GOVERNOR BROWN: Any opposed?

(No response)

LIEUTENANT GOVERNOR BROWN: The DBM Agenda is adopted. Next we'll go to the University System of Maryland. Good afternoon.

MR. STIRLING: Good afternoon, Lieutenant Governor, Madam Treasurer, and Mr. Comptroller. Jim Stirling for the University System. We have thirteen items on today's Agenda. We'll be happy to address any questions you have.

LIEUTENANT GOVERNOR BROWN: The Comptroller moves approval, seconded by the Treasurer. All those in favor say, "Aye."

THE BOARD: Aye.

LIEUTENANT GOVERNOR BROWN: Any nays?

(No response)

LIEUTENANT GOVERNOR BROWN: None.

MR. STIRLING: Thank you.

LIEUTENANT GOVERNOR BROWN: The University of Maryland Agenda is approved. Thank you very much. Let's go to DoIT. Department of Information Technology, Secretary Schlanger, how are you?

MR. SCHLANGER: Lieutenant Governor, good afternoon, Madam Treasurer, Mr. Comptroller. Elliot Schlanger, Department of Information Technology. We have five items on the Agenda this afternoon. We'll be happy to answer any questions at this time.

LIEUTENANT GOVERNOR BROWN: The Comptroller moves approval, seconded by the Treasurer. All those in favor say, "Aye."

THE BOARD: Aye.

LIEUTENANT GOVERNOR BROWN: Any opposed?

(No response)

LIEUTENANT GOVERNOR BROWN: Hearing none, DoIT's Agenda is approved in total. Thank you very much.

MR. SCHLANGER: Thank you.

LIEUTENANT GOVERNOR BROWN: And next let's go to the Department of General Services.

MR. COLLINS: Good afternoon, Lieutenant Governor, Madam Treasurer, Mr. Comptroller. The Department of General Services has twenty-one items on our Agenda, including one supplemental. And I'd be glad to answer any questions you have at this time.

LIEUTENANT GOVERNOR BROWN: Any questions on DGS', comments, concerns? Hearing none, the Treasurer moves approval, seconded by the Comptroller. All those in favor say, "Aye."

THE BOARD: Aye.

LIEUTENANT GOVERNOR BROWN: Any opposed?

(No response)

LIEUTENANT GOVERNOR BROWN: Hearing none, DGS' Agenda is approved. Let's take up all of the remainder of MDOT's -- no, let's go into, what we're going to do is I'm going to move that we go into closed session. And I move that we go into closed session for the purpose of the Board speaking with counsel on the procedural options, if you will, of Item 8 of MDOT's Agenda. No decisions will be made in closed session. And we will, my proposal is that the members with someone to report and our attorney will

go in the back room so you all can stay right here.

That's my motion. We need a second?

COMPTROLLER FRANCHOT: Second.

LIEUTENANT GOVERNOR BROWN: All those in favor say, "Aye."

THE BOARD: Aye.

LIEUTENANT GOVERNOR BROWN: No opposed?

(No response)

LIEUTENANT GOVERNOR BROWN: Okay. We're going to go into closed session for a few minutes.

(Closed session)

LIEUTENANT GOVERNOR BROWN: Okay, we're going to reconvene the Board of Public Works after coming out of closed session and consulting with our attorney on procedural options available on Item 8 of the MDOT. And based on that conversation I am going to make a motion that we, is defer the word we're using?

SECRETARY MCDONALD: Defer.

LIEUTENANT GOVERNOR BROWN: Defer this item until the July, the June 15th Agenda item. That continues to be within the ninety days originally

given by the Board the last time it took up Item 8.

And that's my motion.

COMPTROLLER FRANCHOT: I would second.

LIEUTENANT GOVERNOR BROWN: Second by the Comptroller. Any conversation, discussion on the motion?

TREASURER KOPP: Not on the motion.

LIEUTENANT GOVERNOR BROWN: Okay, all those in favor say, "Aye."

THE BOARD: Aye.

LIEUTENANT GOVERNOR BROWN: Any opposed?

(No response)

LIEUTENANT GOVERNOR BROWN: Okay. So this Item 8 will be deferred until the June 15th and if there is any information to be presented to the Board on June 15th, it will be accepted in writing only. And you can consult with Ms. McDonald about when and where to get it. If you are giving us volumes and volumes please do not give it to us the morning of the hearing. Okay. That's it on Item 8.

TREASURER KOPP: Governor, could I just say? I am happy to go along with that if the funding for

two weeks. But I think the heart of the problem is the fact that this process, with the best of everyone, does not follow the procurement code. And it doesn't apparently follow any written MDOT procurement code process that everyone can look at. And see the code. It, we are told it is like something, it is very close to something, it is quite similar to something.

I also perplexed by the fact that the Board of Public Works has the authority through regulation to exempt a State department from the procurement law. I understand it's been going on for decades but --

SECRETARY MCDONALD: That is the nub of the matter.

TREASURER KOPP: I'm, so I just put it on record I think we should look into that. I think if the Legislature wants something exempted, it should be exempted. But I'm not sure how we have that authority. We apparently do. It's been upheld. But I don't understand.

COMPTROLLER FRANCHOT: I would move approval with that of the DOT budget.

LIEUTENANT GOVERNOR BROWN: Okay, the  
Comptroller moves --

COMPTROLLER FRANCHOT: Item, I mean --

LIEUTENANT GOVERNOR BROWN: Item, not the  
budget. He's back in appropriations. The Comptroller  
moves approval of the remainder of MDOT's Agenda,  
seconded by the Treasurer. All those in favor say,  
"Aye."

THE BOARD: Aye.

LIEUTENANT GOVERNOR BROWN: Any opposed?

(No response)

LIEUTENANT GOVERNOR BROWN: Hearing none,  
that passes and that completes the business of the  
Board of Public Works for today. Move adjournment

(Whereupon, at 12:47 p.m., the meeting  
was concluded.)