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10:18 a.m.

P R E S E N T

GOVERNOR MARTIN O'MALLEY, Presiding;

HONORABLE PETER FRANCHOT, Comptroller;

HONORABLE NANCY KOPP, Treasurer;

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

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

DAVID ROMANS, Deputy 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.

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C O N T E N T S

<u>Subject</u>	<u>Agenda</u>	<u>Witness</u>	<u>Page</u>
Bond Sale	SEC Item 6, p. 8	Sheila McDonald Treasurer Kopp	13
Approval of Grant to Renovate Hosanna School	SEC Item 4, p. 5	Sheila McDonald Anne Raines Dr. Joni Jones	15
Acquisition of Land for Bear Creek Rural Legacy Area	DNR Item 3A, p. 3A	Meredith Lathbury	21
Creation of Assistant Attorney General for Health Exchange	DBM Item 7-GM, p. 39B	David Romans J.B. Howard Thomas Kim	33
USM Agenda	USM	Joe Evans	57
Cloud Messaging and Collaboration Services	DoIT Item 4-IT, p. 8D	Elliot Schlanger Stuart McKee Sheila McDonald	58
DOT Agenda	DOT	Beverley Swaim-Staley	95
DGS Agenda	DGS	Al Collins	96

P R O C E E D I N G S

GOVERNOR O'MALLEY: September 23, 2011 --

21st, excuse me, 2011. Yep, still the 21st. And a great article today in the *Baltimore Sun* about the tremendous progress that has been made in almost eradicating lead paint poisoning of children. Something you never would have thought possible ten years ago when we set the goal of eradicating it. But it's something we've been able to do. Year after year, session after session, they put up the maps. They show where all the kids are being poisoned with lead. Tremendous overlap to the under-performance in schools and also violent crime. There were all the correlations and yet year after year we pretended like it was something we couldn't do anything about. But there's a great article in the *Baltimore Sun* about the tremendous progress of the people of Baltimore, and public health officials, neighbors, nonprofits have done to almost eradicate, not yet, but almost

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eradicate childhood lead paint poisoning which has had such a devastating effect.

So some of these aspirational goals are actually binary. It calls upon you to make a choice as to whether you're going to help achieve the goal or whether you're not going to. And in this case a lot of really good work was done at a time of cynicism and doubt about what our common platform known as our government is capable of accomplishing. It's a great example of what can happen if you are persistent, if you measure performance, and if you are relentless.

So with that, Madam Treasurer or Mr. Comptroller, any thoughts on your mind?

COMPTROLLER FRANCHOT: Congratulations again, Governor. As former Mayor of Baltimore I'm sure you had a big role in that, and Treasurer Kopp I remember Delegate Rosenberg --

TREASURER KOPP: Yes.

COMPTROLLER FRANCHOT: -- from the City and others constantly, Pete Rawlings and others,

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constantly echoing the City's concern on this issue.
So that's terrific.

TREASURER KOPP: It's unfortunate that we
can't have a clear cut fiscal note, fiscal impact note
on that program for the naysayers who think that
investing in health programs is just expenditure. The
return on that investment, not just in terms of saved
lives, but actually participation --

GOVERNOR O'MALLEY: Avoiding costs.

TREASURER KOPP: -- avoiding costs and
participation in the workforce. And having a much
better workforce and less cost in terms of either
crime or demand for public services. The costs are
very real and they just don't look at that side.

COMPTROLLER FRANCHOT: Governor, on another
note, as my colleague Treasurer Kopp knows today the
Board of Revenue Estimates is releasing the revised
revenue estimates for fiscal year 2012 and the first
official estimates for fiscal year 2013. This is not
the figure we put out several weeks ago on the close

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out for fiscal year 2011 where we reported a surplus and delivered it to you, and you put it in the rainy day fund which I think is entirely appropriate. What we're talking about is the fiscal year that we're in. And the first official estimates for fiscal year 2013.

These numbers will be formally ratified by the Board in early October. But as Chairman of the Board I feel it's important to get these numbers out and place them in the proper context. Because I agree with the International Monetary Fund and other folks that are looking at the global economy and are using phrases such as, "very dangerous territory" and "great concern." In our State and in our country we have major problems with jobs and with housing. Anyone who read Jay Hancock's column that was in yesterday's *Sun* about the fact that employment in Maryland is down 70,000 from 2007. And we would have to add not only that 70,000 but another 170,000 to get back to where we were if we hadn't had this downturn.

So for fiscal year 2012 I'm pleased however to report that we're writing up the estimates by \$195 million. This increase is due to an increase in individual income tax collections. I'm pleased because it means that this Board will not have to meet in two weeks, or four weeks, or two months to discuss cuts in the current budget as we have in past years.

I think it's important that we be honest with the taxpayers about what these numbers actually mean because while there was an increase in the income tax collections those increases came solely in the first half of the fiscal year, back in 2010. Sales tax and corporate income tax revenues are being revised downward by the Board of Revenue Estimates, leaving us with a revised forecast that assumes much slower growth than we had previously expected in 2012 and 2013.

It's not surprising. It reflects the national economy and the global economy, which have both lost momentum in recent months. It reflects the

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nation's much anticipated economic recovery never actually happened and that a double dip recession is a far greater possibility than it was six months ago. Three legs of the stool in a consumer powered economy are jobs, housing, and consumer confidence. All three of these indicators are going in the wrong direction. The nation's unemployment rate is currently 9.1 percent, which doesn't include those who are underemployed or have dropped out of the job market altogether. Nationally first time unemployment claims rose in the first full week of September to 428,000, the highest level since last June. And while we in the State of Maryland have an unemployment rate that is considerably below the national average it did tick upwards to 7.3 percent, as we lost 2,500 jobs in the month of August.

According to recent surveys more than 60 percent of Americans are concerned that they or someone else in their household will be losing their job in the next year. Let me state the obvious, these

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people are not going out and buying new washing machines, new deck furniture, or new hardwood floors, or any major expenditures anytime soon. They, like all of us, are hunkering down.

National home foreclosure activity went up 7 percent in the month of August and default notices went up 33 percent, likely reflecting that after an extended delay in the foreclosure process by courts, governments, and lenders alike, banks are resuming the process in earnest.

Thanks to steps that we took under Governor O'Malley's leadership, Maryland has fared better on the foreclosure front than many other states. But the economy continues to take a toll on Maryland families and we are not going to be immune to the foreclosure cycle that I mentioned which is coming back nationally, unfortunately. Mortgage delinquencies in Maryland went up by 37 basis points in the second quarter of 2011. One out of every four Maryland homeowners were underwater on their mortgages this

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spring, the seventh highest total in the nation. Is it any wonder that the Consumer Confidence Index fell in August to 44.5, down from 60 percent in July? Its lowest level since April of 2009.

It's also worth noting the estimates we're releasing today assume an extension of both unemployment insurance benefits and the payroll tax reduction. Both of these are set to expire at the end of the year. If they are not extended that will have an adverse impact on the economy forecast. In addition we're all keeping our fingers crossed to see what the actions, or lack thereof, from the congressional supercommittee will mean for our nation and our State.

We're a great State with great assets. I'm proud that we continue to make sound strategic investments in our economic future even during tough times. But given this extraordinary degree of economic volatility -- I didn't say the world is in a dangerous situation economically, the head of the

International Monetary Fund said it yesterday -- so this economic volatility and given the growing likelihood that conditions will worsen before they begin to turn around I would strongly encourage our State's leaders to proceed with the highest possible degree of caution as they prepare the upcoming budget and gear up for the 2012 legislative session. Thank you, Governor.

GOVERNOR O'MALLEY: Thank you. Madam Treasurer?

TREASURER KOPP: Governor, thank you. First of all in terms of the revenue estimates, as the Comptroller said, the members of the Board of Revenue Estimates, Secretary Foster, the Comptroller, and I, have signed a letter to you and to the General Assembly outlining both the positive \$195 million surplus that we are anticipating for 2012, and for the first estimate for fiscal 2013, the year that starts next July, a growth of 2.8 percent altogether. Which,

while it is very good to have a growth, this is a slow growth.

I would underline that I believe these are conservative estimates. We try to make conservative, prudent estimates. And so far I think that has helped the State a great deal.

So much depends on what's going on downtown on Capitol Hill. How the Congress will get together? If they will. What will happen with transportation funding? What will happen to the cuts in education and health, all of which come to the states? What will happen if they don't enact some sort of jobs bill? It leaves the states in a very precarious position. Maryland a little better than most, no question. But we are all, all going to be seriously impacted by what they do or don't do. Whether they enact a balanced program that creates jobs or not.

I would point out a little ray of sunshine. As you know on our Agenda today is the ratification of the refunding tax issue, which we undertook last week.

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The present value savings, which we had anticipated to be between \$7 million and \$8 million, turned out to be \$11 million which is good. People still want to invest in Maryland bonds. And we took advantage of that flight to quality.

But the fact is it is all within the context of the national and global crisis. We are clearly part of an integrated worldwide market and economy. What happens in Greece impacts us in Baltimore. This is, these are serious times and they call for serious balanced leadership, and I hope that we will see that coming from our Congress. That's my personal opinion. As the radio station used to say, "That's my opinion. What's yours?" Thank you.

GOVERNOR O'MALLEY: Okay. Let's go to Secretary's Agenda.

SECRETARY MCDONALD: Good morning, Governor, Madam Treasurer, Mr. Comptroller. We have six items on the Secretary's Agenda this morning. There are no emergency reports. Item 6 is the one that the

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Treasurer was discussing about the bond sale. We can, be happy to answer, provide you information on any of these items.

TREASURER KOPP: I just want to reiterate, that was a refunding bond sale. We have not increased our outstanding debt. In fact we've reduced it a bit.

COMPTROLLER FRANCHOT: Move favorable.

GOVERNOR O'MALLEY: Okay. There is a historic school, Item 4?

SECRETARY MCDONALD: Yes, Item 4. Is Ms. Raines here from the Department of Planning? This is the Hosanna School, a grant --

GOVERNOR O'MALLEY: Joni Jones.

SECRETARY MCDONALD: -- through the African American Heritage Preservation Program. Thank you. Ms. Raines, do you want to come up and introduce the program and the grantee? That would be great.

MS. RAINES: Thank you for allowing us to say a couple of words on behalf of the grantee, which is the Hosanna Community House. I'm Anne Raines. I

administer this program in the Maryland Historical Trust, which is part of the Maryland Department of Planning. And I'll let Dr. Jones introduce herself.

DR. JONES: And good morning.

GOVERNOR O'MALLEY: Good morning.

DR. JONES: My name, as Anne said, is Joni Jones. I am the Director of the Maryland Commission on African American History and Culture, which is a unit of the Governor's Office on Community Initiatives.

MS. RAINES: We do this tag team thing all the time.

(Laughter)

GOVERNOR O'MALLEY: So tell me about this one.

DR. JONES: This school is, actually its original name is Berkley School. And it's in the traditionally African American community of Berkley which sits right on the Susquehanna River in Harford County. The land for the school was given by a free

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black man in the community. And it was a Freedmen's Bureau School, which means that the land and the materials were donated and the school was built by the community, but the Freedmen's Bureau itself provided supplies and provided teachers. It was the first school for African Americans in Harford County.

The building was originally a two-story building. And interestingly it lost its second story in a hurricane in the 20th century, which was then rebuilt with a capital grant from the Trust several years ago. The --

GOVERNOR O'MALLEY: Do we have a picture of this anywhere, Kevin? Can you try to look one up? Is there a picture on the internet anywhere?

DR. JONES: Thank you, we'll bring one next time.

GOVERNOR O'MALLEY: We might be able to find one. Hosanna School Renovation, Item 4. We'll keep looking while you're talking.

DR. JONES: Okay, if I can just add?

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GOVERNOR O'MALLEY: Go ahead.

DR. JONES: That it was constructed in 1867 and serves now as a museum, so documenting that rich African American history. But has a dual function of serving as a multiuse community space.

MS. RAINES: If you were to look for the National Register listing you would probably find it. It is listed --

GOVERNOR O'MALLEY: That's not it?

MS. RAINES: Well that's it when it had one story. It looks a little bigger now. The first floor is actually a schoolroom as it would have been, and it's used as a museum. And on the second floor they have events for the community and for their members. This grant will allow them to add a chairlift on an exterior stair they've built on the back of the building. The chairlift will sort of run up alongside the stairs and allow handicapped access to the second floor.

DR. JONES: And we should add that the Hosanna School did provide a very sizable match to this grant. So it's definitely a win-win for the State.

TREASURER KOPP: Did the Harford County School, public school children visit to see what the school was like 150 years ago?

DR. JONES: We can't answer definitively. But that is one of the aims of why they have a museum, that is open for tours, and speaking as the Museum Director that's one of our primary targeted audiences, are school groups.

TREASURER KOPP: It would be a good experience.

DR. JONES: Yes.

GOVERNOR O'MALLEY: Okay. Great.

DR. JONES: Yeah, so it's good news.

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

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. Thank you, ladies.

MS. RAINES: Thank you.

GOVERNOR O'MALLEY: Thank you. We now go to Program Open Space.

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

GOVERNOR O'MALLEY: Yes, sir. Mr. Comptroller?

COMPTROLLER FRANCHOT: Yes, Item 3, 3A.

MS. LATHBURY: Yes, this is a Rural Legacy easement in the Bear Creek Rural Legacy Area. This is the property of Delegate Wendell Beitzel in Garrett County.

COMPTROLLER FRANCHOT: Okay. I love Delegate Beitzel. I go out there all the time. He's a terrific elected official, and I have no problem whatsoever with him participating. My question is we're paying \$454,000 of Rural Legacy money to a site in Western Maryland, apparently to protect it from development.

MS. LATHBURY: Correct. This property, this conservation --

COMPTROLLER FRANCHOT: What development is happening out in Western Maryland that I'm unaware of --

MS. LATHBURY: This --

COMPTROLLER FRANCHOT: -- that we need to spend this kind of money?

MS. LATHBURY: This conservation easement extinguishes 28 development rights. The property is part of an important corridor of agricultural production. It also protects the Bear Creek Watershed in addition. It's located around the Accident Dome as

well, which protects the natural gas resources in that region.

COMPTROLLER FRANCHOT: I've gone out, not maybe all the way to, I go out to Garrett County from time to time. It's a long way away. But I always when I'm out there hear that we desperately need a new development. All we have are public lands. And my question is, I guess, isn't this money, I mean we're spending \$5,000 an acre approximately to protect this land. But isn't this just a drop in an ocean out there of ecologically sensitive forest, and stream land? And wouldn't we be better focusing these dollars on areas that are less, that are more developed, I guess? I mean, don't they need development out there?

MS. LATHBURY: One thing that's very important to keep in mind with respect to this Rural Legacy area and others is that these support jobs in the agricultural land and the timber industries. The timber industry is extremely important to the economy

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in Western Maryland. And this particular property has significant forested resources as do, this is privately owned and will continue to be privately owned but permanently protected. The public lands in that area also help to contribute to the timber industry and keep those jobs going.

COMPTROLLER FRANCHOT: Okay. But my major complaint that I hear from people in Western Maryland is there's too much public land. And there's too much I guess government control of their area. And all I'm saying is this is a lot of money. And I hope that you've got, you know, confidence in your own mind that it is well spent. And once again, I have no problem with the Delegate. I sincerely believe it. I think he's a terrific advocate for his region. But it's a lot of money.

MS. LATHBURY: This conservation easement is going to be held by Garrett County. They administer this Rural Legacy area. The Western Maryland counties also play a significant role in working with the

Department of Natural Resources to decide what properties do get protected.

COMPTROLLER FRANCHOT: Okay. Well I'm going to vote for it because you're the expert. But it sure sticks out like a sore thumb, given the, given my understanding of Garrett County and Western Maryland. Thank you, Governor.

GOVERNOR O'MALLEY: Sure. I know on the Open Space we have an objective criteria. Do we do a similar thing with Rural Legacy?

MS. LATHBURY: We do. Rural Legacy Areas go through a very robust consideration. We look at the ecological significance of the area. We look at the local land use and land use planning policies to make sure that there is protection of the rural areas. We also look at the local partner's ability to actually implement the program as well, and their ability to spend the funds in the places where it's needed most.

GOVERNOR O'MALLEY: And is there a points --

TREASURER KOPP: And --

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GOVERNOR O'MALLEY: -- I'm sorry, in this are there points on this? Or this is something done through the Board?

MS. LATHBURY: It doesn't get an ecological score the way the Statestat acquisitions do. However, they do get ranked and considered by the Rural Legacy Advisory Committee in that way.

GOVERNOR O'MALLEY: Got you. And with these things there's also kind of preordained, or oftentimes there's borders to these Rural Legacy Areas?

MS. LATHBURY: Exactly. There is a specific line that designates the Rural Legacy Area. And the property owners in that region are asked whether they are interested in participating in the program. It's a partnership with the local government, in this case it's Garrett County.

GOVERNOR O'MALLEY: And so the map that we had that had sort of the pink shaded area and the red enclosed area, what, we're talking about both of those?

MS. LATHBURY: Just the red one is the one that's under consideration today. But the other one is an existing Rural Legacy easement. But you should have also in your materials a map that shows a blue line that shows the entire Rural Legacy Area for Bear Creek.

GOVERNOR O'MALLEY: That blue line that runs long the Creek there?

MS. LATHBURY: If you turn, it's not the map with the purple square on it.

GOVERNOR O'MALLEY: There's another map?

MS. LATHBURY: There's another map. I can pass this one to you.

GOVERNOR O'MALLEY: I don't have that one. Ah, were you holding out on me?

(Laughter)

GOVERNOR O'MALLEY: I see. All right. So this is the map. And this was designated as a Rural Legacy Area because of the agriculture, because of the forestry, because of the contiguity of those tracks.

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And that rural economy. And the little red dot here that shows up within the blue area is the Beitzel property.

MS. LATHBURY: Correct.

GOVERNOR O'MALLEY: And was the blue area designed before Delegate Beitzel was elected?

MS. LATHBURY: I'm not sure what year that this --

GOVERNOR O'MALLEY: I withdraw the question.

MS. LATHBURY: Okay.

(Laughter)

GOVERNOR O'MALLEY: That was unfair. It was kind of rhetorical. Madam Treasurer?

TREASURER KOPP: What is the role of the local government, besides holding the easement, in determining --

MS. LATHBURY: The local government is very involved with the creation of the Rural Legacy areas. They actually participate and designate what specific area is designated. They also work with the local

landowners to determine their interest. They bid out for the appraisals and do all the legwork in order to create the conservation easements. So there's a very strong partnership with the local government.

TREASURER KOPP: So the local government, having bid out the appraisals, has seen the \$5,000 an acre and believes, obviously they must believe that that is an appropriate --

MS. LATHBURY: Correct.

COMPTROLLER FRANCHOT: Governor, I don't dispute any of that. I'm just, I'm happy to buy your entire department a steak dinner if you can find any development threat for that area, from you know, in this, you know --

GOVERNOR O'MALLEY: I think there's a steak in there.

(Laughter)

COMPTROLLER FRANCHOT: -- some developer that wants to move in and build something.

GOVERNOR O'MALLEY: I think there's a steak in there. I think you all should take him up on his offer.

(Laughter)

GOVERNOR O'MALLEY: Given the degradation that we've seen --

COMPTROLLER FRANCHOT: Okay, yeah, I just, not the whole department, just you, Meredith.

(Laughter)

MS. LATHBURY: I really like steak a lot.

(Laughter)

GOVERNOR O'MALLEY: And call Rich Hall, right? Okay. The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. We move on now to the Department of Budget and Management.

MR. ROMANS: Governor, Madam Treasurer, Mr. Comptroller --

GOVERNOR O'MALLEY: You don't look like Eloise Foster.

(Laughter)

MR. ROMANS: I'm David Romans, from the Department of Budget and Management.

GOVERNOR O'MALLEY: Now David, I think I've heard some good news twice come out now. That we finished the last fiscal year \$300 million up in revenues.

MR. ROMANS: Correct.

GOVERNOR O'MALLEY: Greater than we had anticipated. And that the revenues for the year that we're preparing a budget for are actually \$195 million more than we had projected. Is that true?

MR. ROMANS: Yes. We are up, we have closed fiscal 2011 \$300 million to the good. For fiscal 2012, the year we're in, the revenue estimate is we're going to be about almost \$200 million better. And then for fiscal 2013 the year we are preparing a budget is about the same as our planning number.

GOVERNOR O'MALLEY: Got you. Well that's good news back to back then, isn't it?

MR. ROMANS: Absolutely.

GOVERNOR O'MALLEY: \$300 million up on the close out, and \$195 million more than we had anticipated. Can you remember a time when there was back to back good news like that?

MR. ROMANS: Many, many, many years ago.

GOVERNOR O'MALLEY: Okay.

MR. ROMANS: It's been welcome good news to have, you know, a positive revenue estimate.

GOVERNOR O'MALLEY: All right. So Board of, we're on Department of Budget and Management. Questions? Mr. Comptroller?

COMPTROLLER FRANCHOT: Yes. Item 7-GM, please.

MR. ROMANS: Item 7 is a, creates a position for the Office of the Attorney General. I think the position is related to the healthcare exchange that's being set up, and it's going to be funded with federal dollars that DHMH will transfer over to the Attorney General's Office. And Mr. Howard is here --

GOVERNOR O'MALLEY: 7-B? Is that where we are?

COMPTROLLER FRANCHOT: 7-G.

GOVERNOR O'MALLEY: 7-G?

COMPTROLLER FRANCHOT: I don't know, it's Item 7, I guess. But it's got 7-GM --

SECRETARY MCDONALD: Yeah. It's Item 7, page 39. And the initials GM stand for General Miscellaneous.

COMPTROLLER FRANCHOT: Okay. Welcome, Mr. Howard.

MR. HOWARD: Good morning, Governor, Mr. Comptroller, and Madam Treasurer. Mr. Romans has accurately described the item. This would create and authorize one Assistant Attorney General position pursuant to the so-called rule of one hundred under the State Finance and Procurement Article through which this Board can create 100 positions during a, I believe a fiscal year. And this particular position would be the first and only, to this point at least, Assistant Attorney General representing this newly created unit of the State government, the Health Benefits Exchange.

As I know this Board has heard from Secretary Sharfstein about what the Exchange is doing, the very sort of fast moving developments both on the procurement front but also in standing up its new board, all sorts of things, finding a space for it, to house the unit. So it was evident very quickly that there was a need for a full-time Assistant AG. I can say that to date the very busy principal counsel for

the Department of Health and Mental Hygiene has shouldered a lot of these duties and has sort of pulled in other DHMH resources as needed. But this is an important legal position that we need.

COMPTROLLER FRANCHOT: Okay. I appreciate the need for legal, you know, advice for the Maryland Health Benefit Exchange. I don't have any problem with that. Here's, and it may be a small point, but here's my concern. How many lawyers do you have at the Attorney General's Office?

MR. HOWARD: It depends on what you're referring to. On our central budget we have 99 lawyers.

COMPTROLLER FRANCHOT: Mm-hmm.

MR. HOWARD: We have throughout the Attorney General's Office as a whole, I believe we have something like 430 representing something like, depending on how one counts, anywhere from 60 to 80 units of State government. So the Attorney General's Office, while it sounds like we have a lot of lawyers,

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mirrors and provides advice to the entire State government. So we're spread very thin. And --

COMPTROLLER FRANCHOT: I appreciate that. So 430 lawyers. How many lawyers are there who are State employees who are not working for the AG's Office? I know I have a number over in my office. They have law degrees and they do various things. They don't work directly for you. Mr. Romans, how many lawyers are there on the State payroll?

MR. ROMANS: I don't have a count. We certainly have lawyers doing things --

COMPTROLLER FRANCHOT: Lots of them.

MR. ROMANS: -- that aren't legal as well.

(Laughter)

COMPTROLLER FRANCHOT: Yeah. I have a lot of lawyers --

TREASURER KOPP: Beyond providing legal advice.

COMPTROLLER FRANCHOT: Maybe it's the economy, but I have a lot of lawyers working, it

seems, or people with law degrees. Here's the question.

MR. HOWARD: Mm-hmm.

COMPTROLLER FRANCHOT: It's a simple one. Why do we spend \$107,000 plus the benefits, which I take it are X amount, on a new lawyer? Why don't we just shift one of our existing attorneys in State employment over, or assign them to the Maryland Health Benefit Exchange to do the legal matters that need to be done?

MR. HOWARD: Well the, let me try to answer that in concrete terms. Both yourself, your office and the Treasurer's Office has a very small staff of Assistant Attorneys General funded by your offices. I could not, at least not without quite a bit of negotiation and unhappiness --

TREASURER KOPP: Not to mention --

MR. HOWARD: -- from the Treasurer --

COMPTROLLER FRANCHOT: What's that?

TREASURER KOPP: Not to mention bloodshed.

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MR. HOWARD: Bloodshed, bloodshed is -- so for example, Mr. Comptroller, you know to put it in concrete terms, you know, we have an attorney, an Assistant AG in your office. Your office pays for her. She's extremely busy, Renee Nacrelli, Deputy Counsel. You know, I can't take her from your budget and put her on another budget.

The other thing I would say that's important to note in this regard is that --

COMPTROLLER FRANCHOT: Well let me just interrupt.

MR. HOWARD: Yes?

COMPTROLLER FRANCHOT: Because I'm already out a steak dinner, apparently. I have a number of lawyers working for my agency. I respect them. They do a terrific job. They are professional. And I have I think a number of them who are your Assistant AGs.

MR. HOWARD: Mm-hmm.

COMPTROLLER FRANCHOT: I can, I can, I mean I don't want to offer up my agency, but on a basis

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like this I can see you reaching out and asking and seeing if there are agencies that have the flexibility to put one of these outstanding individuals over there. I mean it's, and I emphasize it's a small point. I mean, we're talking about one position, and etcetera, and I know it's paid for by the federal government. But, although it's still taxpayers money. Why don't we explore that rather than just go ahead and hire a new attorney here?

MR. HOWARD: Well, let me tell you, I agree with you. This actually, this goes to the heart of a dialogue that, you know, we've been having, I think it's starting to bear fruit, with the Department of Budget and Management and others in a position to help us with this.

Here's the situation. We have 430 lawyers. Ninety-nine of them are on our budget that we can move around and deploy as we need. Huge chunks of them are dedicated to consumer protection and to all of the criminal appeals in the State. But we have 99 chess

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pieces to move around. The other 330 or 340 are paid for by State agencies. Our office has virtually no discretion to find the kinds of efficiencies that you are describing without negotiating with the Secretary.

We have had dialogue, and I would welcome your support in this regard because I do think if the Attorney General's Office, we actually testified about this at our budget hearing and it's something we've, a note we've been sounding for a long time. If these attorneys, if we had complete discretion to look at Assistant AGs at agencies and redeploy them in the way that the Attorney General and the two deputies think would be most efficient, the best allocation of attorney resources, we can find those efficiencies. We could probably do this. We don't have that authority right now. It's just the way, it's not, you know, it's one of these systems that sort of we inherited that's always, you know, one of these things that's always been this way. And Governor, I've had, you know, very fruitful conversations with your

counsel about this. And I think we appreciate the support that DBM and the Governor's Office has given us in trying to move towards this type of thing. But the reality --

GOVERNOR O'MALLEY: So you could operate a lot more efficiently --

MR. HOWARD: Yes.

GOVERNOR O'MALLEY: -- if you had control over how to spread your resources?

MR. HOWARD: Yes.

GOVERNOR O'MALLEY: But typically what happens is that the Legislature approves things, or grants are approved, or the like and --

MR. HOWARD: Or the agency puts it in its budget, or proposes to the Governor to put in its budget, a certain number of attorneys. I, let me just spell this out. We have, for example, the civil litigation division that has the responsibility for all important litigation in the State of Maryland.

They are, people think it's this huge division. There

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are seven lawyers doing that right now. They are working, you know, twelve to fifteen hour days. There may be Agency X which has fifteen lawyers. And I know that they could probably get by with twelve. So what I could do, if I didn't have to, if they weren't on the agency's budget, I could take two of them, shift them to the civil division, and save one of them. And then we'd even out the work. But we don't have that discretion right now. And I mean, the Treasurer, the Treasurer has been very supportive with helping us get our legal staff, you know, budgeted there, and new positions that we need. But you know, you certainly know firsthand, I would not want to have the conversation with you where I was pulling one of your attorneys off to go work at the Health Exchange, and on your budget.

So this is a problem for us. We've raised it, you know, for several years. So I'd be happy to have a conversation with Len and, you know, kind of brief you more fully on how this works. And we'd

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welcome the kind of flexibility that you are positing.

But we don't have --

GOVERNOR O'MALLEY: Have you laid out a plan for Secretary Foster?

MR. HOWARD: We have, we have had some high level meetings and --

GOVERNOR O'MALLEY: Well lay out the plan --

MR. HOWARD: Yeah, we'll lay it out --

GOVERNOR O'MALLEY: I mean, some of these things if they are specifically grant funded you can't, you know, take money for the grant funded position --

MR. HOWARD: Right.

GOVERNOR O'MALLEY: -- or take the position. But if there's other things which from your perspective which is more, say, global --

MR. HOWARD: Yeah.

GOVERNOR O'MALLEY: -- than the department and the secretaries --

MR. HOWARD: Yeah, and --

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GOVERNOR O'MALLEY: -- cough them up.

MR. HOWARD: Yeah, and --

GOVERNOR O'MALLEY: Okay.

MR. HOWARD: -- we will do that. We've had that conversation with your staff.

GOVERNOR O'MALLEY: Great.

MR. HOWARD: But we've got to sharpen our pencil and get that done. But, so I appreciate your raising that and giving me an opportunity to explain this. It's something, it's a flexibility we'd like to have. You know, I don't know where else I would get this position right now.

COMPTROLLER FRANCHOT: Well, I mean, you yourself have just said that there are agencies that have too many lawyers for the work that they are assigned. I'm happy to put this off, and you need to, in my opinion, go and reconnoiter out there in the universe of the 430 lawyers you oversee in these different agencies and come back to us and say, you know, you have scoured everything and there's not a

single opportunity for reassignment of someone over to this --

MR. HOWARD: Mm-hmm.

COMPTROLLER FRANCHOT: -- Exchange. So I'd appreciate it if we put this off for a couple of weeks.

MR. HOWARD: Well I would respectfully ask that we not put this off. We need this right away. I can tell you. I, the attorneys at the Department of Health and Mental Hygiene who are providing this support right now are stretched very, very thin, pushing very tight deadlines on implementing. Maryland is, I don't think it's an exaggeration to say it's in the lead nationally in healthcare reform implementation. If we can't get one federally funded lawyer in there right now we're going to have, it's going to materially hurt Maryland's efforts.

Now I am happy to, you know, go through that exercise in other parts of the office after this item. But I would implore this Board not to defer this. To

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approve it today to provide important relief to attorneys who are stretched too thin.

TREASURER KOPP: J.B., this is to be federally funded and then I guess, I don't know what it's called, specially funded when the exchange gets in. If something happens with the law, or the federal money does not come through, what happens with the PIN?

MR. HOWARD: My understanding is, and one of the, Thomas Kim, Assistant Secretary? Deputy Secretary at DHMH can confirm this. My understanding is that DHMH presently has the federal grant and that DHMH would use those grant funds to reimburse this. Is that correct?

MR. KIM: That is correct, Madam Treasurer.

TREASURER KOPP: But are they forever?

MR. HOWARD: This is the implementation grant that we would be using?

MR. KIM: That's correct. So --

MR. HOWARD: You can probably speak to that.

MR. KIM: So the funds that are currently available are to the tune of about \$30 million to \$32 million, and of which would fund this particular position. Now the funds, I think your question is are these funded in perpetuity? Well I guess my response to that would be the same as if you were to ask related to other grant funded positions, is that it is subject to the funds in the statutes at the federal level as far as the continuity of this particular program.

We are tasked to establish the Exchange itself, and for which this grant is covering for. And under that we have, as Mr. Howard had articulated, tremendous pressures on us from an IT standpoint, from an HR standpoint, and from a legal standpoint as rules, regulations are peppered down from the federal government as to how this Exchange truly will work. We have a fundamental core of rules that have been communicated to us to allow us to move forward.

However, when we look at our relationship with all of

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the insurance carriers, all the health plan providers. And then as I said, you know, as the federal government issues out further guidelines it's a tremendous amount of legal interpretation that has to take place. And all these other entities have their own cadres of lawyers with whom we have to interface with. So.

TREASURER KOPP: I don't have any problem with approving it. I, for my, it was my understanding at least at one time, maybe this is not true, that when we create a position to use for a at least quasi federal function with federal funds, when the funds go away, it doesn't automatically become a generally funded position.

MR. ROMANS: Right. The Board has the authority to create two different types of positions. It creates some outside of the rule of a hundred, which is where you are talking about, where we get a federal grant, create a position, and as soon as that grant runs out and we don't have the federal funding

any longer the position goes away. This position is being created within the rule of a hundred, which allows it to remain, usually we do this with State funded positions. And this allows us to retain the position even when the federal grant runs out. And the logic in this case for doing that is that once the federal money runs out the Healthcare Exchange will be up and running and generating revenue to support the position. So it's an unusual situation.

TREASURER KOPP: And will that count as general fund money?

MR. ROMANS: It will be special funds. It will be paid with special funds.

TREASURER KOPP: It will be special funds? So this should not become a generally funded position, period?

MR. ROMANS: It should not become a generally funded position.

TREASURER KOPP: And it's our, can be our understanding that this is not a generally funded position?

MR. ROMANS: Right. But it will eventually be funded with State dollars from the Health Exchange. It's not general funds. It's just unusual in that --

TREASURER KOPP: It's not tax money.

MR. ROMANS: Right. Right. It's just unusual that the funding source changes over time.

COMPTROLLER FRANCHOT: Great. If I could just ask one other question? How many lawyers does DHMH, or your agency, collectively have?

MR. KIM: Mr. Comptroller, I cannot say for certain --

MR. HOWARD: Do you know how many employees you have?

MR. KIM: We have approximately 8,000 employees.

MR. HOWARD: That sounds right. Yeah.

There are approximately 30 lawyers serving those 8,000 employees.

COMPTROLLER FRANCHOT: All due, all due respect --

MR. HOWARD: -- dozens of units, dozens of functions.

COMPTROLLER FRANCHOT: All due respect, you know, all I'm saying is I wish that you'd been able to say, "You know, we really scoured those 30 and we don't have an up and coming young gun who's really terrific, and someone that we can put over and assign to these duties." And --

MR. HOWARD: I can say that, Mr. Comptroller, with respect to the 30 lawyers funded by the Department of Health and Mental Hygiene. I can say that with some passion because I talk to them literally every day about the stress that they are under trying to get healthcare reform implemented in Maryland. And I don't want to hold it up, and Mr. Kim

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knows because he is on two, three times weekly calls with a long list. I'm on some of those calls and putting in some of my personal time. So I do not want to hinder healthcare reform in Maryland by not having the legal support it needs when federal dollars are available.

COMPTROLLER FRANCHOT: Well --

GOVERNOR O'MALLEY: Do you want to vote on this one separately?

COMPTROLLER FRANCHOT: Yes --

GOVERNOR O'MALLEY: Let's vote on seven.
This is --

COMPTROLLER FRANCHOT: Let me ask Mr. Howard while he is up here, though?

MR. HOWARD: Yes?

COMPTROLLER FRANCHOT: You know, we had this controversy about the State Center project.

MR. HOWARD: Mm-hmm.

COMPTROLLER FRANCHOT: And I understand that you have signed a lawsuit by the State against the

small business owners that are, I guess had the temerity to challenge this project?

MR. HOWARD: Mm-hmm. Yes, I have. Counter claim to the existing lawsuit.

COMPTROLLER FRANCHOT: And you are not releasing any documents?

MR. HOWARD: That's not true. If you want to get into the details --

COMPTROLLER FRANCHOT: No I just don't like to see --

MR. HOWARD: -- of presumptive orders and motions to compel --

COMPTROLLER FRANCHOT: -- I don't like to see the State in a position where a public project with public documents, we're being criticized for not releasing documents, number one. And number two, we're launching a counter suit against people that have small businesses and other things out there --

GOVERNOR O'MALLEY: Are you talking about Mr. Angelos?

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COMPTROLLER FRANCHOT: No, I'm talking about the people that run the small businesses that are being sued. And well, I just want to know what the plan is and what the posture of the State is here. Because --

MR. HOWARD: Well let me just say, you know, what you are alluding to are things that the plaintiffs' attorneys have said in the press that are gross distortions and falsehoods about what's actually going on in this litigation.

COMPTROLLER FRANCHOT: Well all I know is what we look like.

MR. HOWARD: I mean, if you want me to get into that, here? Yeah.

COMPTROLLER FRANCHOT: Go ahead.

MR. HOWARD: I mean, that's what the plaintiff's lawyers are saying. That's what the lawyers funded by Mr. Angelos, all of these so called small businesses are, did not initiate this. You know, I'm happy to have a separate conversation if you

want about what's going on in the litigation. No one's asked me for that.

COMPTROLLER FRANCHOT: Okay.

MR. HOWARD: I'm happy to have that.

COMPTROLLER FRANCHOT: I'm just going on what I read in the paper.

MR. HOWARD: Yeah. That's what --

COMPTROLLER FRANCHOT: It doesn't look good.

MR. HOWARD: We don't put out press releases. They do.

COMPTROLLER FRANCHOT: Okay. Thank you.

MR. HOWARD: Thank you.

GOVERNOR O'MALLEY: Okay. Let's vote on this one separately. This one is Item 7-GM. The Governor moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye." Aye.

TREASURER KOPP: Aye.

GOVERNOR O'MALLEY: All opposed?

COMPTROLLER FRANCHOT: No.

GOVERNOR O'MALLEY: The Comptroller votes no. Now the balance of the Department of Budget and Management Agenda. The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. We move on to the University System of Maryland. And Mr. Howard, thank you for your good work and the very professional running of the State's legal business.

MR. EVANS: Good morning. Joe Evans, representing the University System of Maryland. We have four items on the Agenda today. We're here to answer any questions.

GOVERNOR O'MALLEY: Mr. Comptroller? No problems?

COMPTROLLER FRANCHOT: No --

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

(Laughter)

THE BOARD: Aye.

GOVERNOR O'MALLEY: The ayes have it. We move on now to Department of Information Technology.

MR. SCHLANGER: I should be so lucky.

(Laughter)

MR. SCHLANGER: Good morning, Governor, Madam Treasurer, Mr. Comptroller. Elliot Schlanger, Department of Information Technology. This morning we have four items on our Agenda. I call your attention to Item 4-IT, where we're asking the Board to recommend approval of a contract to SADA Systems for Cloud messaging and collaboration services. I am prepared today to give you a brief overview of that contract. I know we have some speakers, and of course I'll be happy to answer questions about that item and

any other item on my Agenda. Should we go into the introduction?

GOVERNOR O'MALLEY: Sure.

MR. SCHLANGER: Okay. Two things I'd like to cover briefly. One, what is the problem that we're trying to solve? So let me do that first. Today as many State agencies as we have we have as many email systems. And actually I believe the count is 57. And that means that in 57 agencies we have separate and unique servers, different software, multiple maintenance contracts, support contracts, and there are folks doing repetitive and redundant tasks at times. So I would hardly classify that as optimally interoperable or efficient.

Let me give you some real live examples of the issues that we deal with. The Governor, or anyone, does not have the ability today to send a blast email to everyone in the State. If in fact that you need to send an email to someone in the State, you do not have the ability to go to a common email

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directory. As a matter of fact, if you are like me you will go to maryland.gov. You will look in the phonebook. You will find the person who you need. You will copy their email address and you will paste it. And I don't know how much time it takes you to do that. I'm pretty quick, but I tell you that takes about 30 seconds. How many times do you do it a year? We lose a lot of efficiency there.

I'll also tell you when I try to access my email from work, from home, from Ocean City, it's never the same. It doesn't look the same. It's always a challenge.

And the last thing which I'll say, when I try to work collaboratively with my colleagues on a document, you know, we end up emailing copies, right? So what happens? I'm working on version seven. The Comptroller has version five. The Treasurer has version six. And the Governor is on version ten. And so we need to fix that.

Most modern enterprises today have landed on one centralized messaging and collaboration system. And that's what we need to do like many current, as opposed to early adopters should be doing. And that's where we're going. And most of all we need to do it in the Cloud. What is the Cloud? The Cloud is nothing more than a collective virtual set of servers, software, other infrastructure that is managed by others that is secure. And the key to all this is because of economies it is cheaper for us to use. There's no magic whatsoever.

And perhaps the little point that I forgot is the communications tool between the State and the Cloud is the internet, which we all happen to use each and every day.

So if I may I could talk about the procurement process that brought us here.

TREASURER KOPP: But let me, what do we give up by making this efficiency? I mean, you said that

it's more secure, the new system would be more secure

--

MR. SCHLANGER: Right.

TREASURER KOPP: -- more efficient, and make collaboration easier, more doable. What would we not be able to do that we can do now?

MR. SCHLANGER: From a technical perspective I don't think there's anything we give up. As a matter of fact I think we gain a lot.

TREASURER KOPP: I'm not a technical --

MR. SCHLANGER: Right. So is there pride of ownership here? I mean, we need to get way beyond that.

TREASURER KOPP: Ownership of the email system?

MR. SCHLANGER: Right. I mean, every agency could easily say, "Well, this is ours. We've customized it for our needs." I believe that email is a utility. It should work the same for me as for you.

It should be easy to use, intuitive. So let me just

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go back and make this comment emphatically. The question is what do we give up? And I say from my perspective we do not give up anything. I think we gain a lot.

Security? A lot of people ask about security. So what I would tell you today is if we have 57 different systems, those are 57 portals into the State, and each one represents a security risk. I like to think that the different agencies do a good job, and to tell you the truth based on the instances that we've seen, I think we do a good job. But again, it's 57 independent islands that I have a concern about. When we collapse to the Cloud there is one portal now that is professionally managed by the best security people in the industry. And that security is applied 24/7. And the other thing which I also would like to add is that the recommended offeror actually is certified per the Federal Information Security Management Act of 2002, otherwise known as FISMA to us in the field, and all this means is that this level of

security is satisfactory to our federal agencies. And you know, I don't want to be funny but if it's good enough for the feds I think the states should be comfortable that it is good enough for the State.

So based on the fact that we are collapsing the points of risk, and we are looking for specific certification, I think that the security issue is not an issue for me, and if anything enhanced over where we are today.

TREASURER KOPP: Okay.

MR. SCHLANGER: Should I go on or would you like to ask some questions? I would go to defer to the Board as to how they would like to have me proceed. And again, I know we have some people here -
-

GOVERNOR O'MALLEY: How much are we going to save?

MR. SCHLANGER: Excuse me?

GOVERNOR O'MALLEY: How much are we going to save?

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MR. SCHLANGER: So as part of this analysis we took a look at our current world, and we measured all in costs which includes hardware, software, service contracts, internal people. And as a State our annual spend on this particular area is approximately \$9 million annually. We have calculated based on the price proposed by the offeror and still allowing for those internal costs that we will have, again, you know, we will have to maintain certain systems in house. There's implementation costs. All in costs in the new environment we will save \$2 million to \$3 million annually. So it's pretty significant.

GOVERNOR O'MALLEY: Hm. Mr. Comptroller?

COMPTROLLER FRANCHOT: Yes, do you have that document with you?

MR. SCHLANGER: Yes, I do.

COMPTROLLER FRANCHOT: The \$9 million?

MR. SCHLANGER: Sure.

TREASURER KOPP: How much of that is jobs?

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MR. SCHLANGER: So what I would say to you is that it is not our intent to eliminate jobs. Because as we look at agencies some agencies either do email on a, say, part-time basis so there's no full-time email administrators. The second thing which I would say is in the State currently there is a shortage of IT talent. You have heard me say before.

TREASURER KOPP: I remember --

MR. SCHLANGER: You know, how hard it is to fill positions. So I look at this opportunity to fill that gap.

TREASURER KOPP: So the savings that you are going to show the Comptroller are not savings simply by laying people off, and --

MR. SCHLANGER: That is correct. There's hardware savings, there's software savings, there's maintenance contract -- I guess I should get in front of the mike. So there are a lot of external costs that in fact will be eliminated because in fact we are going to be buying this software service annually per

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user. We're going to subscribe, essentially, and pay for what we use.

Other things that will happen is in terms of technology it's a refresh. We know that there are agencies today that are operating on hardware that is falling apart. There are secretaries that are sitting in this room who would attest to that. And so here this gives us a chance to be not only technologically current but also every user is on the same revision. So we're consistent, as opposed to the different systems not only in type but age that we have in the State today.

COMPTROLLER FRANCHOT: Can I, first of all, Governor, this is the first time I've seen this and it's largely incomprehensible to me. So I'd like to have a chance to take a look at it in more detail. Because I'm not exactly sure where the Treasurer was moving in her questions but I think that the savings need to be looked at more closely. Because -- well, let me ask you a couple of other questions. Why are

we going into a five-year contract with two five-year renewals? It seems every time I turn around someone is coming up with some new twist on the technology that can save money and be more efficient. Why are we doing five years and two five-year renewals?

MR. SCHLANGER: All right. So as a utility such as email I think it would be difficult if you will to consider changing our horse in the middle of the stream. We're going to do a conversion from where we are today. I don't want to say it's a trivial task. But as in fact that we have email systems that we use today that have been in place for many years we would say that after we move to the Cloud we're going to stay there. So it's not something we're going to say after a couple of years it's time to change. So in order to get the best benefit of price it makes sense to obligate ourselves to a longer term contract.

COMPTROLLER FRANCHOT: Are you aware of what's going on in the Netherlands right now with

their egovernment site? There was a big article in the *Wall Street Journal* last week.

MR. SCHLANGER: I am not fully aware but what I --

COMPTROLLER FRANCHOT: Okay. They have --

MR. SCHLANGER: -- sorry.

COMPTROLLER FRANCHOT: Yeah. They have a system that is implemented over there that most of their population participates in, including paying taxes. And it's been hacked into and compromised so that the entire Dutch government is now urging their citizens to go back to faxes and snail mail. Can you imagine this in the judiciary, for example? The lawyers are being ordered not to communicate with the courts electronically. So the security, I agree, is a priority. But to the extent we are consolidating and coordinating our portal, we may in a kind of counterintuitive way be opening ourselves up to a larger security problem that hasn't been realized. I'm not saying that what is happening to the Dutch is

going to happen to us. But can you imagine if we told our lawyers in Maryland they had to use faxes? They wouldn't know what to do.

MR. SCHLANGER: Right. So if I may, respectfully, the State every day is attempted to be hacked into thousands of times. We are a security risk. And what I would tell you is because we are diligent and a little bit of luck we have not had a major incident, at least under my watch. So whether you're the government of the Netherlands, the State, a private enterprise, there is always the risk. As a matter of fact under the leadership of the Governor a few weeks back we had a cyberterrorism exercise because we needed to be ready in case such an incident should occur.

The other thing that I would like to say is the federal government, which I do respect at times, has a Cloud first policy. Their agencies are under a direction that when in fact you look at applications, consider the Cloud first. And so what I would say is

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granted there is security risks, granted there are incidents that occur. But I don't want anyone to think that because we're moving an application to the Cloud that our risk profile automatically upgrades because we chose to take that path.

COMPTROLLER FRANCHOT: No. All I'm suggesting is that when we consolidate our technologies and do a single contract, should there be a breach of security instead of a somewhat limited amount of damage that can be done if one of the 57 agency systems is hacked into, as bad as that might be, allowing a successful hacker to get into the entire system is something that concerns me. Obviously my agency has a particular interest in this --

MR. SCHLANGER: Sure.

COMPTROLLER FRANCHOT: -- because we have so many millions of people's tax returns. And we pride ourselves in this confidentiality. But one of our rules over there is that very few people can get into,

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you know other than the Deputy Comptroller and a couple of others, can get into the system. Everybody else has to go through all sorts of hoops and jumps, etcetera. And I'm concerned that, particularly we're included in this, that we're opening up a possibility where we instead of, you know, where we create a bigger problem for ourselves by allowing someone to get into the Fort Knox, so to speak, simply by hacking into one. You know, once you get in, you're in.

And so I'm concerned about it and I'd like to look at the costs because I'm not sure the cost savings are particularly great. And I'm also not convinced that we need to, I understand the elegance, I guess, of having a more efficient Cloud-based system. But I'm not sure we have to do it right now. Why don't we just look at this for a while, save ourselves some money, let you, I don't, and I don't have anything in with Google versus Microsoft. I can't tell the difference between the two companies

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anyway. I know there's a dispute. I'm not, I don't care about that because I think your procurement people are handling that properly. What I'm questioning is, you know, do we really need to move forward now?

And I have great respect for you. You're obviously our technology czar. And I don't want to challenge you on something like this. But I would urge you to at least let us look at the cost stuff and think this through. I particularly would like to have it vetted by my technology people just because of the sensitivity of all of the information that we have in the Comptroller's Office.

MR. SCHLANGER: Mm-hmm.

COMPTROLLER FRANCHOT: And I love the Cloud. It sounds great. If someone can explain to me what Facebook is I'd be glad about that, too.

(Laughter)

COMPTROLLER FRANCHOT: You know this is, I would appreciate it if you would hold off on this.

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GOVERNOR O'MALLEY: This is an interesting perspective. See, I'm slightly embarrassed that it's taken us so long to do this. I mean, we've been talking about this forever and so many other states are way ahead of us on this. Madam Treasurer?

TREASURER KOPP: That leads me to another, I understand that DHMH is going to be the first, I don't know if pilot is the right word, but the first user --

MR. SCHLANGER: So may I address that, please?

TREASURER KOPP: Hm?

MR. SCHLANGER: So months ago DHMH came forward and said, you know, our email environment is in bad shape. And so we have the opportunity to leverage a grant in order to upgrade our email. And so the lightbulb went off and said, "Look, why perpetuate a State silo? Why not take this opportunity to set the path for the State to move towards what every other major enterprise in this world has, one centralized, consolidated email system

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in which we can communicate?" And so we worked very rapidly starting in June to put together State requirements representing many agencies; executed a procurement that ran flawlessly. And you know, I just hate to say that this is time sensitive. But I'll say that in the fact that we planned to be here today, not that we kind of drag our feet and we're here today, trying to take advantage of the DHMH opportunity to start this process for the State. So the background on the grant and the procurement is as I said, Treasurer. And actually we are trying to execute this contract and tap that grant before it expires end of October. So the time frame is relatively short.

TREASURER KOPP: So in terms of the Comptroller's concern, obviously the Health Department has some very highly privileged records, right? Confidential records?

MR. SCHLANGER: That's correct.

TREASURER KOPP: I assume. And is in fact, are you covered by HIPAA? Yes. So what is the impact of HIPAA requirements on this?

MR. SCHLANGER: Well, let me just say this. Today, even though we're not in the Cloud, I would venture to say when you send email out and you receive mail each and every day, secure information, or I'd say confidential information, you're using the public internet. I mean, that is the reality. So what I would say is that the security requirements that we have imposed satisfy the needs of all agencies as I can see it.

TREASURER KOPP: So you can say whatever HIPAA requires in terms of health records access will be as readily met in this system?

MR. SCHLANGER: That's right. And I would say it the other way.

TREASURER KOPP: Will be fully --

MR. SCHLANGER: I would not jeopardize information being exposed to the Cloud that shouldn't be there. I mean, that would be irresponsible of me.

TREASURER KOPP: And I assume that's the position of the department as well.

MR. SCHLANGER: Right. The other thing, too, is that the Cloud offers you a higher level of security service if you need it called encryption, which kind of codes and decodes on both ends. So in fact that we do have the ability if you will, and I don't mean to be facetious, but if we have top secret sensitive information there is another path we can take within the Cloud. But I don't think that would satisfy, or I don't think that would be required for the majority of the population of the users of Cloud email.

TREASURER KOPP: No, I agree. But it's interesting that you chose the department that has specific federal confidentiality requirements placed on its records. Again, it's not email focused, HIPAA,

but health records. So if it meets those requirements I would think it is a significant step above normal security, typical security.

I, as you know, know the Netherlands personally. And I understand the concern. But on the other hand what you're talking about is setting up an enterprise wide --

MR. SCHLANGER: Right.

TREASURER KOPP: -- system, basically.

MR. SCHLANGER: Again, you know, about the Netherlands, and I admit that I'm not intimate with the background there, but we should never think that a cyberattack would just hit one agency. You know, even in the State a cyberattack could, you know, hit many agencies if not all agencies at the same time. So I just, you know, I just hesitate in kind of looking at that one example and saying that if we avoided the Cloud we would have avoided the same risk of an entire government being affected by a cyberattack. I can't say that would happen or not happen.

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TREASURER KOPP: There is something about integration. A lot of people opposed the creation of the Federal Department of Education for very similar reasons. Sometimes lack of efficiency does provide some security.

MR. SCHLANGER: Right.

TREASURER KOPP: And this is always a balance.

MR. SCHLANGER: And I would also say with some of the recent attacks of Sony, whose public face was shut down for weeks on end, and some of the banks, to be honest with you some of these companies have security departments that we can't hold, I mean, a candle to. But these hackers are good. These hackers are good. So my answer is, and the Governor would agree, is we need to be prepared, and we need to drill. We need to practice.

COMPTROLLER FRANCHOT: Yeah. But let me just conclude, because I don't think we're where we should be --

MR. SCHLANGER: Mm-hmm.

COMPTROLLER FRANCHOT: -- in this. And I appreciate the exercise that you went through recently. But to pull everything into one Fort Knox environment, as I called it, call it, I just don't see the, you know, other than maybe philosophically or something, so say we took 57 email systems and put them into one, I'm not comfortable at all with the Comptroller's Office being included in this. Because I just, I don't want my system to be up on the Cloud with everybody else's. And anyway, I'm not going to support this. If you have these deadlines I guess that's not my problem. I question the, both the need, because I haven't heard a lot of problems. I'm not familiar with DHMH. I haven't heard a lot of concerns from the other agencies.

And I appreciate where you're coming from because you're the technology person and you want to do this because it makes sense from a conceptual standpoint. I'm just saying why do we need to do it

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now? Why don't we wait and check out what happened in the Netherlands? And think a little bit more about this? Because we may be decreasing our security in an odd way by moving into this.

So I'm going to vote no, Governor. But if you could separate this item out and I'm happy to move on.

GOVERNOR O'MALLEY: Okay. Anything else? Is the Comptroller's Office required to be part of this?

MR. SCHLANGER: Excuse me?

GOVERNOR O'MALLEY: Is the Comptroller's Office required to be a part of this?

MR. SCHLANGER: So we plan on rolling this out agency by agency.

GOVERNOR O'MALLEY: Right.

MR. SCHLANGER: The goal, of course --

GOVERNOR O'MALLEY: Yeah, but they don't have to.

MR. SCHLANGER: -- is to get everyone. But we're paying as you use. So if an agency has a compelling case not to be a part of it they don't literally have to be a part, nor will they have to pay into it.

GOVERNOR O'MALLEY: Right. So he can, so the Comptroller's Office can take all the time they like to --

MR. SCHLANGER: Correct.

GOVERNOR O'MALLEY: -- examine the ins and outs of Cloud security versus security the way we're currently doing it, and all of that, right?

MR. SCHLANGER: Right.

GOVERNOR O'MALLEY: Okay.

TREASURER KOPP: As I recall actually the Comptroller's Office and the Treasurer's Office were the last to go onto R*STARS when it was created because they wanted to see how it would work out, wanted to look at security and have some private

ownership, as I recall. And then came to a conclusion at their own time and speed to join in.

GOVERNOR O'MALLEY: Okay.

TREASURER KOPP: A while ago.

GOVERNOR O'MALLEY: Okay. Anything else?
Okay. Microsoft wants to protest this. Microsoft, do you want to come up and tell us --

SECRETARY MCDONALD: There's a Mr. McKee, is a Mr. Stuart McKee available?

GOVERNOR O'MALLEY: Mr. McKee?

MR. MCKEE: Thank you. Thank you,
Comptroller Franchot, Treasurer Kopp, and Governor O'Malley. I appreciate the opportunity to be here before you today. For the record, my name is Stuart McKee and I'm the Chief Technology Officer for Microsoft's U.S. public sector. It's a position I've held since 2004. In my role I work with governments across the country and around the world on strategic and technology policy issues. In addition let me also state that as a former Chief Information Officer for

the State of Washington, I served in Governor Locke's executive cabinet, and I personally appreciate the challenging decisions before you and the complexity of security and enterprise and whatnot. And we want to thank the Board for the opportunity to express our concerns today regarding the RFP before you.

As the Comptroller mentioned we are currently facing an incredible economic situation and it is essential that government take advantage of information technology best practices and maximize return on taxpayer investment. And I appreciate Elliot's position to talk about consolidation and saving money. That's absolutely appropriate. And we applaud the State's effort to pursue innovation through technology but we have significant concerns regarding the current proposal before you.

While we are disappointed that potential solutions from Microsoft were not given full consideration we have a greater concern that the State may not have given the recommended contract a level of

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scrutiny and due diligence appropriate for an \$18 million, I mean a \$56 million award affecting critical communications infrastructure. In that regard we respectfully offer the following questions for the Board's consideration.

Is the State confident in the understanding of total cost of ownership? Given the short timeframe in the RFP for response and examination it is unlikely a reliable cost analysis or trustworthy functional evaluation has taken place. The Board should be particularly troubled by the fact that the RFP expressly did not include deployment and migration costs, which will be significant.

Were minority business enterprises policy objectives given consideration? We know from past experience that the State applies a strict level of scrutiny on MBE issues and should consider this before effectively outsourcing email.

Is the State procuring a solution that best meets accessibility standards? As you know, Maryland

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requires the State to procure solutions with superior accessibility features. Microsoft is the leading vendor in accessibility technologies and we are committed to deliver the proven solution Maryland citizens and government employees expect. Excuse me.

Is the State maximizing its current investment? And if not, how will increasing costs help? The current contract contemplates spending at least \$56 million to outsource email when more than 50 percent of the State's mailboxes have already made an investment in Microsoft technologies. Retraining and replacement costs are significant and should be fully considered before abandoning the investment the State has already made.

While we are certainly interested in obtaining the State's business for Cloud email infrastructure we also believe our message is important today as many governments look to each other for guidance. For sure you have heard media reports of large scale migrations that go wrong and end up way

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over budget or otherwise fail to deliver. In this regard we would encourage the Board to look past marketing hype and demand proven results. For example, the City of Los Angeles Chief Information Officer has stated they made a similar commitment to outsource email to the same platform you are considering today based largely on unfounded claims about Washington, D.C.'s move to the Cloud. However, after trial, error, and proof Washington, D.C. is in fact committed to the Microsoft platform while the City of Los Angeles is years behind, moving to the Cloud and millions over budget.

So in closing the contract before you is a large, complex project of critical importance to the State. Email is not a utility, it's critical communications infrastructure. We trust the Board of Public Works is committed to ensuring the State selects the best solution that provides the best bang for the buck. In this context we respectfully ask the Board to reconsider approval of the contract before

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you. To summarize, we believe prior to committing millions of dollars and risking critical infrastructure the State should do a thorough cost analysis that includes deployment and migration costs, two, consider a pilot deployment involving agencies to test functionality, and three, assure any procurement includes participation from the MBE community and industry leaders alike. Thank you.

GOVERNOR O'MALLEY: Thank you, Mr. McKee. Questions? Okay. All right. Anyone else on this matter? Okay. We'll treat this one separately. This is item, what item is it?

MR. SCHLANGER: Four, 4-IT.

GOVERNOR O'MALLEY: 4-IT.

TREASURER KOPP: Governor, I do think, I mean, a significant issue was raised. I just want to make clear, and you have laid out for us all the steps of the procurement, there was no protest actually --

MR. SCHLANGER: That's correct.

TREASURER KOPP: -- for the procurement?

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MR. SCHLANGER: That is absolutely correct.

TREASURER KOPP: We are eventually perhaps going to be removing some people from the Microsoft Exchange platform to another?

MR. SCHLANGER: That is correct.

TREASURER KOPP: That is true? And Microsoft in fact, or its vendor, was not one of the ones that responded fully, responsibly to the procurement? Is that, yes or no?

SECRETARY MCDONALD: She wanted to know about, if the, if Microsoft did not respond fully to the procurement can you talk a little bit about what they sent in that it was not compliant, not responsive? There was some bid from some reseller of Microsoft maybe that --

MR. SCHLANGER: Sure. So --

SECRETARY MCDONALD: Because it says in here there were six bids received and --

MR. SCHLANGER: Yeah. There were six bids received. One was late. So we had to throw that one

out. There were three that were non-susceptible for award. One was submitted by Microsoft. Well Microsoft technically did not meet minimum requirements, and there were only two. One was that the offeror needed to have experience of three different implementations where there were over 10,000 users. And the second one was that they needed to offer how they would meet or exceed FISMA security requirements.

Now I can't speak for Microsoft. But in early discussions we offered, if you will, an informational session for vendors to come in and generally discuss their wares. They had disclosed to us publicly that in fact they could meet those requirements. So instead of taking a shot at proposing in the true sense and trying to address the requirements of the State that we made a very concentrated effort to produce, they offered what I would call general request for information marketing type information. Non-binding, their words. And

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actually during the open period they did not raise any questions or any issues with respect to any improper procedures or processes related to the procurement itself. And when the procurement closed, when the proposals were due, as we all know with respect to Maryland procurement process there is a period open for protest. They did not make themselves avail to that as well. And here we are today.

TREASURER KOPP: Well that's unfortunate.

MR. SCHLANGER: Oh, so Google?

SECRETARY MCDONALD: Yeah, I mean, I don't know if you want to bring up the company that you are proposing --

MR. SCHLANGER: Right. Right. So Google is here to speak. I understand that they registered to speak. I guess --

SECRETARY MCDONALD: Well yeah, they did. The names are here. But perhaps you would like to, SADA is here, Mr. Kulinsky from SADA, and also I think

we have a few people from Google, Mr. Chakravorty and Mr. McIntyre.

GOVERNOR O'MALLEY: Right. I think we're okay.

SECRETARY MCDONALD: But I think that the Governor seems like he doesn't necessarily need to hear from them. So that's why --

MR. SCHLANGER: Okay.

GOVERNOR O'MALLEY: I don't --

MR. SCHLANGER: I just wanted to let you know that they were here today.

GOVERNOR O'MALLEY: Okay. All right. We're going to consider this one separately. This is Item 4-IT. The Governor moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

TREASURER KOPP: Aye.

GOVERNOR O'MALLEY: All opposed?

COMPTROLLER FRANCHOT: No.

GOVERNOR O'MALLEY: Okay. The Comptroller votes no and the ayes have it. The remaining items on

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Department of Information Technology. The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed, "Nay."

(No response.)

GOVERNOR O'MALLEY: And the ayes have it.

MR. SCHLANGER: Thank you.

GOVERNOR O'MALLEY: We now move to the Department of Transportation.

MS. SWAIM-STALEY: Good morning, Governor.

GOVERNOR O'MALLEY: How are you doing, Secretary Beverley Swaim-Staley?

MS. SWAIM-STALEY: Fine, thank you. Good morning, Madam Treasurer and Mr. Comptroller. The Department of Transportation has ten items today. Items 2 and 10 have previously been revised. And we're here for questions.

GOVERNOR O'MALLEY: Any questions, Department of Transportation?

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COMPTROLLER FRANCHOT: Move approval.

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

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it.

MS. SWAIM-STALEY: Thank you.

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

MR. COLLINS: Good morning, Governor, Madam Treasurer, Mr. Comptroller. The Department of General Services has 32 items on our Agenda. Item 15 is being withdrawn. And we'll be glad to answer any questions you have on any of the remaining items.

GOVERNOR O'MALLEY: Any questions, Department of General Services?

COMPTROLLER FRANCHOT: Move approval.

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

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed, "Nay."

(No response.)

GOVERNOR O'MALLEY: The ayes have it. And that concludes our Board of Public Works Agenda. Thank you all very much.

(Whereupon, at 11:49 a.m., the meeting was concluded.)