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

April 15, 2015
10:00 a.m.

PRESENT

HONORABLE LARRY HOGAN

Governor

HONORABLE NANCY KOPP

Treasurer

HONORABLE PETER FRANCHOT

Comptroller

SHEILA C. MCDONALD

Secretary, Board of Public Works

C. GAIL BASSETTE

Secretary, Department of General Services

DAVID BRINKLEY

Secretary, Department of Budget and Management

PETER RAHN

Secretary, Department of Transportation

EMILY WILSON

Director, Land Acquisition & Planning, Department of Natural Resources

JIMMY RHEE

Special Secretary, Governor's Office of Minority Affairs

MARY JO CHILDS

Procurement Advisor, Board of Public Works

MISSY HODGES

Recording Secretary, Board of Public Works

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PROCEEDINGS

GOVERNOR HOGAN: Good morning, ladies and gentlemen.

AUDIENCE: Good morning.

GOVERNOR HOGAN: We're here today on Tax Day, April 15th, the Comptroller's favorite day of the year.

(Laughter.)

GOVERNOR HOGAN: I want to thank Comptroller Franchot for constantly reminding me every two weeks that this day was coming. I've been pretty busy over the past 85 days but thanks to his friendly reminders, I actually got my taxes filed on time.

COMPTROLLER FRANCHOT: Excellent, Governor.

(Laughter.)

TREASURER KOPP: Good thing.

GOVERNOR HOGAN: The actions of the Legislature knocked our balanced budget out of whack and so we now have a more than \$200 million shortfall for next year. But I want you to know that with the check that I just wrote to pay my State taxes --

(Laughter.)

GOVERNOR HOGAN: -- we are well on our way to fixing that problem and I'm happy to be able to do my part.

The legislative session came to an end this week. And I want to again thank the legislators on both sides of the aisle for all of their hard work and their efforts. We didn't agree on everything, but we have changed the focus and the dialogue in Annapolis to being focused on fiscal responsibility.

This is among the lowest rates of growth in four years and after eight straight years of 40 consecutive tax increases we finally broke that streak and actually have tax cuts instead of tax hikes.

(Applause.)

GOVERNOR HOGAN: Even though the legislators are done and they are now all leaving town, we are just getting started. And we will continue to fight on behalf of Maryland's taxpayers. It's an important reminder of the significance and important responsibility of this Board of Public Works, which is responsible for the approval and the expenditure of tax dollars including nearly \$280 million just today. Now that the legislators have completed their work and appropriated funds, this Board now has the important responsibility to ensure that those funds are spent in a fiscally responsible way on behalf of all of our taxpayers. I'm looking forward to working together with my colleagues here to accomplish that together.

I'd also like to take just a moment to thank the Comptroller for his support of the pensions and for standing publicly with us when we tried to defend the State employees and the teachers from the robbing of their pension funds.

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Lastly, I'd like to make an overall observation about our Agenda before us today. It still has multiple items across multiple departments that contain problems which we feel very strongly about and which our new management team will be working very hard to improve upon and correct, including retroactive contracts, sole source contracts, single bid contracts, and short notice contracts where we're being asked to approve items under deadlines that are as short as the very same day.

Members of this Board have been saying for weeks that these habits must change. And while yes, there have absolutely been some improvements there is still much work to be done. So to our new agency chiefs a reminder to focus on these items and continue to make improvements. It won't benefit anyone to put the Board in a position later where we have to vote items down for failing to follow the proper procedures. We can and we will do better. And now let me turn to my colleagues for any opening remarks. Madam Treasurer?

TREASURER KOPP: Thank you, Governor. First of all, I want to congratulate everybody for being here today. It was a grueling 90-day session and the beginning, to be thrown in right in the beginning of, of, of a new term. I must say obviously the reason we have elections is because not everybody agrees on everything. And there were a whole crop of people elected last fall, the Governor of course was elected and 188 members of the General Assembly

elected to each to do what they thought was, was best. And while none of us are completely happy, I must say, I would like to say, Governor, regarding the issue of the pension system, as you know the Legislature this year for the first year in over a decade moved the pension system funding method from a loose unique corridor system to a hard actuarially based system. This was a very tough decision and it puts Maryland right in line with all the other AAA-rated states. It was a tough thing to do and I commend them for doing it. And then on top of that adding the \$75 million to the actuarial funding every year, while not what we would have preferred is in fact a very significant step forward. And, and we're pleased that, that they did that.

I would hope Governor, candidly, with the funds that were cut that you could see your way through to maintaining the pay raise, the two percent pay raise after many years of furlough and freezes for State employees. I personally am very concerned about the state of the State employees. They are not paid as well as the private sector, never have been. They also are not paid as well as the counties and local governments. And we are having trouble filling, filling our slots. In fact, you mentioned a couple of the items that are before the Board today. And I share your frustration and the Comptroller's with some of the procurement procedures.

I must say it looks to me as though there are insufficient and insufficiently well trained folks in procurement in the shops to get things done.

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And I think we are seeing the indications of that on the, on the budget, on the items today.

So with that, I look forward to, to the next steps and to the ability to help keep Maryland online. And as we, we used to always say, both fiscally prudent and socially responsible.

GOVERNOR HOGAN: Thank you, Madam Treasurer. Mr. Comptroller?

COMPTROLLER FRANCHOT: Thank you, Governor. And if you did wait until the last minute, you have a lot of company. About a million Marylanders are filing their taxes today.

TREASURER KOPP: I did it, by the way. I did it.

COMPTROLLER FRANCHOT: Excellent.

(Laughter.)

TREASURER KOPP: Last, last weekend.

COMPTROLLER FRANCHOT: Ninety-eight percent of those filing now owe us money. So thank you very much and I'll keep an eye out. But we have had an extraordinarily successful, knock on wood, tax season. If you have noticed the IRS essentially had a train wreck at the federal level and shut down their customer service. People couldn't get through on the phone. People couldn't make appointments. If they did get an appointment the people they met

with couldn't give them straight answers. So it really was an unfortunate experience at the federal level.

In contrast at the State level we are going to process this year 3 million returns. We are going to return \$2 billion on average in 2.1 business days to our citizens. When you call 1-800-MDTAXES, which I do frequently, you will get a friendly, well informed, knowledgeable customer service representative who can answer your questions about taxes. Now maybe today not, because it's April 15th. So I see the *Washington Post* back there. Please wait until, well, go on a semi-normal day.

But the point is that we're getting money back to people. We're making the trains run on time. We're protecting the system as best we can on the cybersecurity issues, which are, you know, prevalent everywhere in the country. But we're getting the job done. And I think Marylanders, although they are not super enthusiastic as anybody obviously isn't about paying taxes, but they appreciate the fact that it works, the system works. And we're trying to make it easy on them.

So Governor, thank you for recognizing Tax Day. Thank you also for reaching out and trying to help our rank and file State employees and our rank and file teachers. I've had one teacher after another come up to me and say thank you for speaking out for our pensions. It's our financial security. We were promised \$300 million a year in supplemental pension payments in exchange for

raising our income tax by two percent. Remember that? That's not two percent. That's like from five percent, to six percent, to seven percent. So that's like a 40 percent increase. That was one of the reforms that was passed. And in exchange for that the Legislature agreed to put \$300 million in additional. And now we're down to \$75 million. So thank you for speaking out for us. And Governor, I salute you for sticking up for them. Because right now they don't have a voice. It's sad to say that, our rank and file teachers and rank and file State employees.

There's a lot of confusion here in Annapolis right now and I hope we get back up to the \$300 million level. The Treasurer, who I have great respect for, who is Chair of the State Retirement System Board of Trustees that I'm Vice Chair of mentioned we're going to an actuarial system. Well I've gone from the corridor funding, to a phase out of the corridor funding, to a phase in of this, to actuarial funding over the last nine years. The only common thread through that whole transition, from one to another system, has been that the State pension gets less money each time. So stay tuned on this. If there is a correction in, in the market, guaranteed we're going back to the corridor funding. Because that's just the way it's situated here. But the fiscally responsible approach for our pension system is to put the money in that we said we were going to put in and stick with the system. Don't jump from one system to another just because we happened to have a good year in the stock market last year, although I hope we have another good year on the stock market.

But anyway, it is Tax Day. I'm proud of the wonderful people that work in my office. Governor, I, if I could just take a moment of personal privilege if I could and indicate that there is someone who is incredibly important to me sitting right next to me, Jerry Klasmeier. Who in two weeks, the Board of Public Works meeting two weeks from now is going to be Jerry's last. He's going to go on and enjoy a well-deserved retirement with his wonderful wife Jane and his three children and his four grandkids.

This gentleman is a virtual encyclopedia of institutional knowledge about procurement and many other subjects. There is no more respected voice or more dedicated public servant in Maryland State government. Jerry Klasmeier is a civic icon. I consider him a trusted advisor. Most importantly, a true friend. It's been an honor, Jerry. I consider myself truly lucky to have had the privilege of sitting beside you over the past eight years. Jerry, thanks so much for everything. Seriously.

(Applause.)

GOVERNOR HOGAN: Well thank you for that very well-deserved round of applause for Jerry. And I would echo everything that the Comptroller said. I know that the Treasurer does as well. The reason why we're going to say great things about him, I believe at our next meeting. Because the Comptroller is going to be nice enough to step aside and allow Jerry to take his place for the final meeting and we're going to have a nice --

COMPTROLLER FRANCHOT: Yep.

GOVERNOR HOGAN: -- retirement luncheon, and he's going to, he's going to be the Comptroller --

COMPTROLLER FRANCHOT: Yep.

GOVERNOR HOGAN: -- for the next meeting. So.

(Laughter.)

(Applause.)

GOVERNOR HOGAN: I just want to make one comment. The Comptroller said you can call that 1-800 number and ask any question you want about taxes. I may call and say why are taxes still so high, and why didn't the Legislature vote for all of our tax cuts?

(Laughter.)

GOVERNOR HOGAN: Can they give me that answer?

COMPTROLLER FRANCHOT: They'll be friendly.

(Laughter.)

GOVERNOR HOGAN: Well let's go ahead and get started with the Secretary's Agenda. Secretary McDonald?

SECRETARY MCDONALD: Good morning, Governor, Madam Treasurer, Mr. Comptroller. We have 17 items on the Secretary's Agenda this morning. There are two reports of emergency procurements. We are prepared to respond to your questions.

GOVERNOR HOGAN: I'd like to ask about DGS Item 7-MOD.

SECRETARY MCDONALD: Okay --

GOVERNOR HOGAN: As I understand this maintenance contract, DGS PAAR Item 7-MOD?

TREASURER KOPP: Uh-uh --

SECRETARY MCDONALD: Right, so this is, let me just clarify for the other Board members, this is Item 3 on the Secretary's Agenda, but within Item 3 we have the DGS PAAR. So Secretary Bassette will probably be --

GOVERNOR HOGAN: As I understand it this maintenance contract has more than tripled --

MS. BASSETTE: Yes.

GOVERNOR HOGAN: -- in less than a year from an award amount of \$21,900 to a new contract amount of \$80,039. And I just want to know why.

MS. BASSETTE: Yes, Governor. I have discussed that with our Assistant Secretary of Planning and Construction. She's prepared to answer that question.

MS. BUCKLER: Good morning. I'm Lauren Buckler, the Assistant Secretary of Facilities Planning, Design, Construction, and Energy for DGS. This contract started as the replacement of valves for a cooling tower for a courthouse. Once the contractor got in there and replaced the valves they

discovered some other issues that wouldn't allow the cooling tower to function and cool the building. With us getting into cooling season any day now, we needed to make sure the cooling tower was functional so there have been a couple change orders to this contract in order to fix other pieces as they found them. The original assessment only indicated that there was valves but as those were replaced other issues came up.

GOVERNOR HOGAN: Great. Well, thank you.

MS. BUCKLER: Thank you.

GOVERNOR HOGAN: I also want to bring up --

TREASURER KOPP: Governor --

GOVERNOR HOGAN: Oh, I'm sorry.

TREASURER KOPP: -- could I thank you first of all for raising that issue, and, and thank you for making a very clear explanation.

GOVERNOR HOGAN: Yeah, we very much appreciate clear answers.

TREASURER KOPP: It's very helpful.

(Laughter.)

GOVERNOR HOGAN: Thank you. Thank you very much.

MS. BUCKLER: Thanks.

GOVERNOR HOGAN: I also want to bring up the emergency Department of Public Safety and Corrections item, which I know has received

quite a bit of attention. Secretary Moyer I believe is here with us today. Secretary Moyer, I know that this did not happen on your watch and that it is the responsibility of your predecessor. But could you please try to explain this item to us?

MR. MOYER: Yes, sir. Good morning, Governor, Madam Treasurer, Mr. Comptroller. I have been the Public Safety Secretary since January 21st and it was my understanding that the former Board of Public Works back on January 7th did approve this contract. Crystal Enterprises was the top technical, had the top technical ranking as well as the overall ranking. That bid was --

GOVERNOR HOGAN: This was on January 7th?

MR. MOYER: This was on January 7th. The bid was \$37 million. Trinity Services finished second in technical ranking and second in overall ranking and the bid was \$89 million. So there was significant savings to the State by awarding Trinity this contract.

As we got, the transition of those services started throughout January, and it takes about 30 days to convert this type of contract. So Trinity was in place by February 1st. At the time, if you remember the news, I was dealing with some other issues related to people being indicted and sentenced for corruption within the department. That was my focus and I believe one of the

main reasons why the Governor tapped me for this position, was to focus on that. But as I learned about this procurement this became a priority as well.

Within my first 30 days of being the Secretary I did replace the Deputy Secretary of Administration with a gentleman by the name of Bill Stewart who comes from the business background, had worked for me over at Juvenile Services when I was a Deputy Secretary there years ago. Bill has a very strong foundation, has an MBA from the University of Virginia, and formerly worked with Alex Brown in downtown Baltimore. He's very well versed on business issues. He will be responsible for reviewing all of these types of transactions in the future and will oversee what's going on in our procurement department.

Towards the end of February we were notified by Trinity that there was an issue with the number of meals that were actually being served and I personally went back and reviewed the number of meals that were being served in the Baltimore facilities at that point in time. The RFP had a mistake. It was listed that there was 22,000 meals that needed to be provided a day in the Baltimore region and the actual number is around 16 to 17,000. The department made a mistake with that number in the RFP.

Trinity brought to our attention --

TREASURER KOPP: Mr. Secretary?

MR. MOYER: Yes?

TREASURER KOPP: Is it now 16 to 17 as opposed to 15 to 16 --

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MR. MOYER: It's 16 to 17, Madam Treasurer, and I, I personally requested my IG to go in and look at the actual numbers over the past year.

TREASURER KOPP: Great idea.

MR. MOYER: All right. So we know that's what the actual number is today. This issue was raised by Trinity back on January 7th and the, the award of this contract did go forward even under the protest proffered by Trinity.

I felt I needed to deal with this immediately. I moved to terminate the contract for convenience and issued an emergency contract. You cannot go a day without feeding inmates in our facilities. We have enough other issues that we're facing with on a day to day basis that there's no way, shape, or form that we need to stop that food service. And everyone agrees, everybody in the industry knows it takes about 30 days to make a transition on this.

It should also be noted that throughout our other facilities in the State, our State employees provide those services. So this is a unique food contract for the Baltimore facilities. But I did recognize that there was issues here, terminated the contract, issued the emergency, and we're now almost two months into going through and establishing a new RFP for this contract.

GOVERNOR HOGAN: So Mr. Secretary, you discovered that the numbers were wrong on the number of meals?

MR. MOYER: Yes, sir.

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GOVERNOR HOGAN: You terminated the person responsible for it and terminated the contract?

MR. MOYER: I made a, I've made a, I've made a huge change on the administrative side of the department.

GOVERNOR HOGAN: Well I would certainly agree with you. You can't go one day without feeding prisoners without having riots. So what, what is your suggested solution to this problem?

MR. MOYER: I think we recognize the fact that the actual meal count is 16 to 17,000 meals a day. That was a mistake this department made. I'm the Secretary, so I've looked into it and I determined that's what the actual numbers are, terminated the contract, and we're going to move forward with a new RFP.

GOVERNOR HOGAN: And how long would that take?

MR. MOYER: It will take up to six months and we're like six weeks into the process.

GOVERNOR HOGAN: So the emergency contract is to take you, just to make sure inmates are continuing to be fed until we can get the new bid?

MR. MOYER: Yes, sir.

GOVERNOR HOGAN: Is there any other alternative that's in your mind?

MR. MOYER: The State could look into taking over those services but I have not, I don't, I haven't done a cost benefit analysis as to what that would be and what that would look like.

GOVERNOR HOGAN: And you think there could be substantial savings with this?

MR. MOYER: There's substantial savings with the original award of this contract to Crystal, even with the modified contract to get us through the emergency period. There's tens of millions of dollars being saved.

TREASURER KOPP: Saved over what?

MR. MOYER: It's --

TREASURER KOPP: Saved compared to what?

MR. MOYER: It, the original contract was \$37 million through Crystal, and it was, the second place was \$89 million --

TREASURER KOPP: You mean saved compared to the, to the other bidder?

MR. MOYER: Yes.

TREASURER KOPP: That was my question, compared --

MR. MOYER: Okay.

TREASURER KOPP: -- to what.

GOVERNOR HOGAN: Any other questions?

TREASURER KOPP: I have, can I just ask, first of all, I have great faith in your Secretary --

GOVERNOR HOGAN: Well, thank you. So do I.

TREASURER KOPP: -- make a point --

GOVERNOR HOGAN: That's why I dragged him back from Florida.

TREASURER KOPP: Yes.

(Laughter.)

GOVERNOR HOGAN: Against his will.

MR. MOYER: It's been cold here.

TREASURER KOPP: Do you think in fact, I mean we have asked some questions before, before you came and since then, and I am convinced in fact that your procurement office is near to under staffed in terms of the amount of work that has to be done. That either you need more staff or somebody else has got to do part of it or something. Do you disagree?

MR. MOYER: I agree with that. We do have some vacancies. My primary focus on day one was the corruption issue.

TREASURER KOPP: Right. No question.

MR. MOYER: I've done some things to take care of that. I, I will take, we have several vacant PINs that I will take a look at to see if we need to add more procurement positions within our own office. They are huge contracts.

My staff is pretty maxed out on the nature and the complexities of, of these types of contracts. And we did recognize that when we did our initial assessment in the first 30 days.

TREASURER KOPP: So you believe that under these circumstances you are going to be done, this, what you are proposing to us today is in fact realistic?

MR. MOYER: It's --

TREASURER KOPP: And that the full new procurement will be completed by the time this emergency contract is --

MR. MOYER: We will move forward and complete this. It's a challenging --

TREASURER KOPP: I'm not trying to put you in a box. It's a serious question.

MR. MOYER: It, August, what is it the 30th or the 31st, but end of August, you know, we hope to have this completed.

GOVERNOR HOGAN: Mr. Comptroller?

COMPTROLLER FRANCHOT: Yes. Thank you, Governor. And Mr. Secretary, thank you for being here. And I think under your leadership I'm sure this agency will get back on the right track. But I have a few questions about this and I suspect my colleagues may want to ask a few more. But if I could just understand this a little bit more, you're asking the Board to award a

contract for \$37.8 million to Crystal Enterprises. That's a firm that had never provided inmate food services in the past and which submitted a bid to the old Board, previous Board of Public Works, a bid that came in 58 percent lower than that of the incumbent vendor which has a proven record of successful service delivery.

The incumbent claims that these services claimed at the thing, and I thought it was frankly sour grapes at losing the contract, that was my first brush with this, but the incumbent company claimed that those services cannot possibly be delivered for such a low price and the winning bidder insisted that they could. And the department stood before us, at least the Treasurer and I, it predated Governor Hogan. But stood before the Treasurer and I and stated, quote, that they can absolutely perform these services. And this Board has little choice but to accept the department's assurances since it is presumed to be the subject matter. But now, lo and behold, it turns out that the incumbent wasn't being a sore loser like I thought. But that they were right all along. It was an unrealistic bid proposal from the start. The State finds itself in a real jam. Taxpayers are getting socked with an unexpected bill for \$6.6 million as a result of either staggering incompetence or something else.

This might just be the most troubling item that I've seen brought before this Board in the eight years, nine years now, that I've been sitting on it. And believe me, there were some doozies. The Kudner Farm, I won't go back

there, Governor; the underwater swamp land that we paid millions of dollars to purchase down in the, Dorchester County, that was an A++; the State money for the fast food restaurant in Cambridge on Route 50 for neighborhood development. So many other greatest hits we've had. This one I think just about outbeats them all.

And once again, trust me, I'm not criticizing your leadership. I'm delighted to hear that the administrator was fired. I hope that that sends a message of accountability to everybody in the agency. But my first question before we go into forensics is strictly procedural. Why wasn't this emergency contract bid competitively as opposed to simply being handed back to the company that was so willing to leave the department, the prisoners, the State, in a, on a lurch and in so doing create a highly combustible situation with our inmate population as the Governor referred to? Why didn't we have some kind of competition?

MR. MOYER: Mr. Comptroller, it was, we sat down and it was brought to my attention on February, it was prior to February 26th. I had started looking at the numbers because it just sounded like the numbers were wrong and I identified that the numbers were wrong and I, I pointed that out. On February 26th I ordered the emergency contract because on February 27th, and that was going into a weekend, we, we would be in a situation where food services would not have been provided if we had just outright terminated and moved the new

vendor out. I made the best judgment I could make with the information available to me at that time. And these services are, are being provided.

From an employee perspective most of the Trinity employees were picked up by the new vendor, so that transition was smooth. But it did take 30 days. And my Attorney General Stu Nathan in a conversation with Trinity's attorneys, you know, admitted that it takes about 30 days to transfer these types of contracts.

COMPTROLLER FRANCHOT: Okay. That's fine. So Crystal, the vendor we're dealing with now, on February 24th told you apparently you could not continue to provide, they could not continue to provide food services after February 28th, four days, unless the department restructured its agreement to increase the price per meal from \$1.43 to \$2.20 per meal, a 53 percent increase. And the reason for this according to my notes is that we were actually ordering fewer, not more, but fewer meals than were called for in the RFP. So, two questions. First, was it clear to Crystal at the time that the contract was memorialized that it would be getting paid on a per meal basis and not on the basis of an agreed upon fixed cost? And second, even if the actual meal count fell short of the estimated food count why would this necessitate such a dramatic restructuring of the contract? Why wouldn't we just expect the vendor to honor its contractual obligations and find a way to deliver these services for the price that it agreed to with the State of Maryland?

MR. MOYER: I did review that information, Mr. Comptroller. And due to the fact that I did not want to run the risk of not providing inmates meals, we made a decision. Even with that higher price point per meal, and yes the new vendor did know it was per meal, and there was language that was in there as well that didn't stick us with the 22,000, it could be a lower number. But the RFP was very clear in that we were looking at 22,000 meals per day. The, Trinity could not --

TREASURER KOPP: Excuse me, Mr. Secretary? When, when, when they were before us we asked them. The question then was not 22 but 18 and the answer was yes, we could go down to 18 and a little below that.

MR. MOYER: Yes.

TREASURER KOPP: So --

MR. MOYER: I, I --

TREASURER KOPP: -- that was before the contract was approved by this Board.

MR. MOYER: -- I read all of the transcripts from, from, from the previous meetings, personally. I read them twice last night. The, even with the adjusted price it is still tens of millions of dollars cheaper than the, than the second bid. But I will put out a new RFP and we will go through this process with the right numbers.

COMPTROLLER FRANCHOT: If I could just, Madam Treasurer?

TREASURER KOPP: Sure --

COMPTROLLER FRANCHOT: It's okay to take? How exactly did we get the count of meals so wrong? I mean, it wasn't by a little, it was by a lot.

MR. MOYER: Mr. Comptroller, you have known me since 1987 when we first met when I was a trooper working here in the General Assembly --

COMPTROLLER FRANCHOT: Yep.

MR. MOYER: -- for Walter Baker. And you know I am, I am direct and I am honest. In my review of everything, I go back to the original RFP in 2008. I believe that's where the 22,000 number was. If you go back and look at the history of the Department of Corrections population wise over the last several years, the overall statewide inmate population was 24,000 on any given day. It's now down around 22,000. And so I knew those numbers because when I interviewed for this job people had some pointed questions for me so I did my homework. I, when I saw the same number back in 2008 and then this number on this contract it, it even raised my concern and I said something, something's not right with these numbers. And then, when the, when the original invoices started coming in from Trinity, we, we recognized that.

COMPTROLLER FRANCHOT: Okay.

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GOVERNOR HOGAN: Now were they billing for the increased number of meals knowing that the number was wrong?

MR. MOYER: No, sir. No.

GOVERNOR HOGAN: Okay. So they realized that they were only serving 16,000 meals instead of 22?

MR. MOYER: Correct.

GOVERNOR HOGAN: And they said now that, now it doesn't work for us because of the --

MR. MOYER: Correct.

GOVERNOR HOGAN: Okay.

COMPTROLLER FRANCHOT: But they were both bidding on the same RFP, I take it?

MR. MOYER: Yes, sir.

COMPTROLLER FRANCHOT: And tell me again how did we end up with such a disparity between these two firms, if they were bidding on the same numbers?

MR. MOYER: I'm in day 83. I've been into most of our facilities. This, I, I inherited this and I saw it as an issue --

COMPTROLLER FRANCHOT: No, trust me. I, I am not, I am --

MR. MOYER: Okay.

COMPTROLLER FRANCHOT: -- not grilling you. I'm just --

MR. MOYER: I mean, I identified it as an issue, you know, fairly, you know, within 30 days of being in this position.

COMPTROLLER FRANCHOT: No, don't get, seriously Mr. Secretary, do not feel defensive up there yourself because you're trying to fix it.

MR. MOYER: Okay.

COMPTROLLER FRANCHOT: But I do have a question about Crystal informing your department on the 24th that it couldn't keep serving meals after the 28th --

MR. MOYER: Correct.

COMPTROLLER FRANCHOT: -- if a new and more lucrative contract wasn't produced right on the spot. At that point in time their contract with us was only 48 days old. So even if we go along for the sake of argument with the premise that the terms of this contract were ultimately unsustainable, there was obviously still a lot of money left in the approved contract to continue delivering meals after February 28th and for several more months after that before, quote, the money eventually runs out. Did anyone from the department bother to challenge Crystal on the basis for its demand and push back and say this is not, this doesn't sound right?

MR. MOYER: I did meet with my procurement team and also with the Assistant Attorney General assigned to our department and we felt that we needed to make a move as soon as possible with this.

COMPTROLLER FRANCHOT: Okay. And was there a performance bond on the State of Maryland's contract with Crystal?

MR. MOYER: There was an issue about the performance bond. They were given originally I believe until the end of January to provide that. An extension was given until the end of February. We were assured after review of, I'm sorry, of the -- Joselyn is going to comment on --

MS. HOPKINS: Good morning.

GOVERNOR HOGAN: Good morning.

TREASURER KOPP: Good morning.

MS. HOPKINS: Joselyn Hopkins, Procurement Director. The bond was actually required as part of the contract, \$2 million bond. At the time that the contract was approved on January 7th we did not have the bond in hand. There were questions about whether or not we had the bond in hand. We said yes, we had a bond but it was intended to, you know, we intended to state that the bond was part of the contract. But again, we did not have it in hand.

We did have a letter from the surety bond company that stated that it was favorable that Crystal was going to get the bond as soon as the contract was approved. So we moved forward based on that letter that we had from the surety company. After the contract was approved by the Board of Public Works there was an article in the Baltimore Sun that talked about the disparity in the two costs of the two vendors. The surety bond got concerned, pulled back their letter, and

stated that they needed an additional \$2 million from Crystal in order to, you know, provide them with the bond, which they couldn't provide.

So there is language in COMAR that talks about the requirements of the bond. So we, we discussed that with our attorneys. COMAR says all performance bonds required for all construction contracts in the excess of \$100,000 in the amount equal to and at least 100 percent of the contract price. The performance bond shall be delivered by the contractor to the State no later than the time that the contract is executed. This speaks specifically about construction contracts and not services contracts, which this is. So in discussions with our legal department we felt that we could proceed without the bond.

Additionally, we had no intention on exercising the bond within the first 90 days of the contract because the contract stated that we could not proceed with liquidated damages within the first 90 days of the contract. So we felt that we were okay as far as what the language says in COMAR and also because of the fact that there was no risk to the department without the bond.

We did decide that we were going to terminate the contract by January 30th. But then they had discussions with DBED in which they stated that they would be able to give them a bond so we allowed them additional time.

COMPTROLLER FRANCHOT: Okay, well so when we asked point blank at the January meeting if there was a performance bond in place that we could fall back on in case we ended up with a situation exactly like today's, I

think the Treasurer then followed up asking explicitly if it was for \$2 million, because you all said yes. We were assured by a gentleman named Mr. Parrish that this was the case, and subsequently a gentleman named Mr. Custis who appeared at the meeting on behalf of Crystal confirmed this was the case. And these were pretty ironclad assurances that there was a performance bond in place. It's pretty surprising to me that frankly your counsel and everyone kind of read the COMAR provisions to not include this. But --

MS. HOPKINS: We didn't --

COMPTROLLER FRANCHOT: Go ahead.

MS. HOPKINS: We did not state that the vendor would not have to provide the bond. We never stated that. What we wanted to do was give them an additional, additional time to obtain the bond because of the fact that, again, the language we interpreted in COMAR, that we as a State agency had discretion to allow more time to obtain the bond because of the fact that the language in COMAR states construction contract and this was not.

COMPTROLLER FRANCHOT: Okay. Is your counsel here?

MS. HOPKINS: Yes.

COMPTROLLER FRANCHOT: Is, could he, is it, who does he work for? The AG?

MR. NATHAN: Yes, sir.

COMPTROLLER FRANCHOT: Great. So I'm sorry, what's your name?

MR. NATHAN: Stuart Nathan, Counsel to the Department of Public Safety and Correctional Services.

COMPTROLLER FRANCHOT: Okay. Great. Let me ask you a question, Mr. Nathan. Is it legal for a private vendor to begin work on a State government contract with no performance bond in place?

MR. NATHAN: We believe that it was legal. We did not believe it was the best practice. What we had encouraged the department to do was to try to secure the bond and have it in place by the time that the contract was to begin. We were given assurances that there was progress being made on those accounts, first with the private surety and then with MSBDFFA, the Maryland Small Business Development Financing Authority. And in fact we were advised in, early in February, that the MSBDFFA board had, had reviewed this matter and was favorable and we were negotiating at that point just the finer, at that time the finer points of actually getting, it was going to be a letter of credit.

But we had advised, the Attorney General's Office had advised consistently that the best practice was to have that bond in place. We had also consulted with the Governor's Office of Minority Affairs and the Attorney General's contract litigation unit about whether it would be legal to go forward

without having the bond but moving towards having the bond in place. And we were advised that it was acceptable.

COMPTROLLER FRANCHOT: Well I will just state for the record that if you go back and look at the transcript from January 7th, it was very explicit that there was a performance bond in place. I mean, that was, that's, that wasn't your testimony but it was folks that work for the State. And I hope as long as we're continuing our accountability effort we might review that as to not only the truthfulness but just the legality of it, testifying like that before us.

MR. NATHAN: Yeah, I'm very familiar with, with what was said. I've reviewed the transcript. I believed, frankly I believe that, that the testimony indicated that the bond was in place at the time --

TREASURER KOPP: It did.

MR. NATHAN: -- of January 7th. That that's what, to me that's what the testimony seemed to indicate. And we've advised, you know, the department accordingly.

COMPTROLLER FRANCHOT: I have a few more questions, but Madam Treasurer feel free to jump in. I don't want to dominate the time. But it, it does appear to me that from the transcript where it says there's, this is in, from Ms. Hopkins, who was here. I don't know whether she's, oh that's, okay. Sorry. Your own words were, when we were asking about the, whether the State's interests were covered on the front of the actual versus estimated meals was,

quote, there's also language in the RFP that states that the department does not guarantee a minimum or maximum number of meals. So that covers that legally. So, unquote. If true then Crystal had no legal leg to stand upon when demanding a renegotiated contract and in fact would place itself I assume in considerable legal and financial jeopardy if it indeed did walk away from its obligations as it claimed it was going to do on February 28th. Is that --

MS. HOPKINS: We were confident at the time that the contract was awarded that we did have the protection that the State needed if there were fluctuations with the estimated number of meals. There was the average daily population which was included in the RFP. We had language in there that said that those were estimates. We also had language in the RFP with the financial proposal that had the 22,000 estimated number of meals that clearly stated that, you know, there is fluctuation, there is no estimated number of meals. In fact it said that unless otherwise stated in the RFP the department does not guarantee a minimum or maximum number of units or usage in the, in the performance of this contract. We also have language in there that says the actual numbers of the inmates could be higher or lower during the contract period and the figures represented do not comprise an estimate or a guarantee. Furthermore the department makes no representation about their accuracy and they shall not be part of the contract.

COMPTROLLER FRANCHOT: Okay.

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MS. HOPKINS: So that was in the RFP. We, during the evaluation process we confirmed with both vendors, do you understand the requirements of this contract? They agreed. When we did the financial proposal we did two rounds of BAFOs. We then again confirmed whether or not they understood the requirements of the contract and that they understood that there would, could potentially be fluctuation within the, the estimated number of meals. They confirmed. On January 7th they came before you, they stated yes, we understand that. Based on that and the fact that, you know, the RFP was very clear we at that point felt confident that there were things in place to protect us should those numbers fluctuate.

COMPTROLLER FRANCHOT: Got it. And I couldn't agree with you more as far as your description. And then Mr. Custis, from Crystal, the company that we're concerned about, he had this to say after you spoke. And, you know, they were relatively nonplussed with the whole question that we were asking. Quote, he said there's no guarantees but the numbers that we have have a lot of cushion in there as well. We feel very comfortable with the number even if it is not 22,000, that's my editing, even if it is at, quote, 18,000, or even a little bit lower than that we'll be able to provide the service that we've been providing for 26 years to other clients, among them the Air Force Academy, etcetera. So how in the span of seven weeks did we go from yes, we'll cover this, to, quote, give us another sack of money by Friday or we walk?

MS. HOPKINS: Crystal is here and they can answer that question for you.

COMPTROLLER FRANCHOT: Good, I hope they are here. But hang on a minute because I don't want to, I don't want to bring them up right now. But is it -- okay. While I've got you, Ms. Hopkins, I guess I should just say that my conclusion is that this is the most troubling procurement action that has ever been brought across my desk, our desk, in my eight years at the Board. Each and every consequential action associated with this award and execution of this contract is one that I would characterize as highly irregular. And while we have had some really bad contracts come before us over the course of time I've always attributed them to administrative negligence, misplaced policy priorities, or flawed procurement procedures within the agencies in question.

In this case I'm afraid to say that those would be the most benign explanations for what has occurred here. Not once have I ever had a fleeting thought, not once have I ever publicly suggested there might be something else at work. And I realize I'm venturing into uncharted waters so I want to choose my words carefully. But I'm still searching for that same sense of personal assurance when it comes to this particular contract. I find it hard to believe that any taxpayer sitting at home could review this fact pattern from the circumstances under which this vendor received the contract in the first place to the extremely accelerated and extraordinarily secretive procedure, manner in which the

emergency contract was awarded, and not have some of the same thoughts come to mind. And for the sake of ensuring that the, all the official activities associated with the award and administration of this contract meet our standards for public integrity I would respectfully like to ask the Governor if he would be willing to allow this matter to be referred to the Office of the Attorney General for his review. And to determine based on that review if this was simply a costly case of sloppiness or if there is cause for further review by other appropriate agencies. It's, I'm sorry to even bring up that. I don't think it interferes with us granting the emergency contract, because I'm not interested, as the Governor noted, in upsetting the applecart. But I would like to have this contract, all of the conversations and memos and relationships and whatever else is out there, looked at by the Attorney General so that we have confidence that it's on the level.

MS. HOPKINS: With all due respect I would just like to state as far as the procurement process, the specifications, those were flawed. The procurement officers don't write the specifications. The procurement officers refine the specifications. The information that was provided to me as the procurement officer, that information was flawed. That came from the institutions. We don't write those specifications. The procurement was done properly. Every vendor was treated fairly. They were treated equitable. They were several rounds of, of oral presentations and clarifications on, you know, from both vendors. They were both afforded the opportunity to cure any

deficiencies that they had to keep, you know, make sure that we weren't bringing a, a single bid before the Board. Everything was done up to par as far as that procurement was done. It was done properly.

COMPTROLLER FRANCHOT: Well I, I'm not --

MS. HOPKINS: These specifications, again, were flawed, so --

COMPTROLLER FRANCHOT: -- all I'm saying, if I could interrupt? I'm going to vote for this emergency procurement. But I am voting for it on the assumption that we can have the Attorney General look at this from A to Z and come back with a, whatever his findings might be that this is, this is not, this is irregular because of incompetence as opposed to some other reason. And, so I, I guess, I don't know what you, what you would like for a motion, Governor Hogan. But I'm, I hope that we could get this for the, so that we don't have any concerns. And trust me, I repeat again, this is all previous administration. But I would hope that I could get support from my colleagues to refer it over. I guess I could just call the Attorney General myself because I served with him for 20 years. But I'd prefer to have it be something where Madam Treasurer, you asked a lot of the most pointed questions and got the answers. And Governor, you're new on this issue. But boy, this one is, I'd love to have a Good Housekeeping seal of approval put on this by the AG before we end it.

GOVERNOR HOGAN: Before we wrap up the discussion I think we had some people that requested to testify on this issue? We have Trinity

Services, I think has had a request to talk. Maybe we'll give them an opportunity. And I believe Crystal Enterprises' representatives are here as well, if they would like to talk.

MR. NATHAN: Thank you.

GOVERNOR HOGAN: Thank you.

MR. JOHANSEN: Thank you, Governor. My name is Mike Johansen. I'm here today on behalf of Trinity Services Group. Let me just tell you what you haven't been told yet. The rest of it is bad enough. Savings of millions of dollars compared to what? You asked the appropriate question. Compared to a bid proposal that we had to submit according to all these new requirements that were imposed by the prior administration. Savings compared to January is false. This is eight percent more money than we were paid in the month of January. Which government agency has got an eight percent in its budget in the last three months? None. Most have been said you are taking a two percent cut.

TREASURER KOPP: Well Mr. Johansen, you came in with a bid of over \$3.00.

MR. JOHANSEN: Correct.

TREASURER KOPP: Are you going to come in with a lower one next time?

MR. JOHANSEN: Well the lower one next time, hopefully there is going to be a procurement that's fair and everybody is bidding on the same terms.

TREASURER KOPP: That's just a question, I mean --

MR. JOHANSEN: And I think what you would find --

TREASURER KOPP: -- the comparison was against the over \$3.00 bill --

MR. JOHANSEN: Correct. But the decision before you today --

TREASURER KOPP: -- compared to \$2.20.

MR. JOHANSEN: -- on what you are saving today as compared to going out for a new emergency contract, it will take longer than six months for this RFP. The last one from the time of publication to start date, which is the appropriate measurement at least, was nine months. This agency has a history of taking a while to get procurements done. I'm not being critical of any individuals. But it doesn't take six months.

Governor, I would recommend that the State actually consider what it wants to procure in this next procurement. There are lots of alternatives. Our company east of the Mississippi alone is involved in 80 correctional facilities where we provide food service. Mr. English, who is behind me, last year alone bid and participated in bidding in 100 RFPs. So there's a way that I think the State can get a better value. And Madam Treasurer, perhaps the number would

not be \$3.28. But we were paid \$2.03 in January. The State is moving ahead with \$2.20. Why not make it \$2.03? Where did the magical \$2.20 come from? Why does the State think it's fair?

Principally I think the most important thing that you could do is hold Crystal to its promises by terminating them not for convenience, which is a gift that let them off the hook and has no protection to the taxpayers, and terminate them for default. You can still proceed with the emergency contract if they are willing to do it.

GOVERNOR HOGAN: And what if they're not, and we don't have food for the prisoners tomorrow?

MR. JOHANSEN: Well, then ask them. Okay? Well, ask them. You know, they are here. Are they willing to do it at \$2.20 for the next couple of months? But if you terminate them for convenience, and for default, you protect the taxpayers, Governor. You have the right, because they've legally promised you something they didn't deliver, that you can go after them for the damages of the new bid. That's what your counsel should be telling you. You know, and they're not.

So you know, we knew, because we were told, that there was no performance bond on February 4th. Did they tell the Board there was no performance bond on February 4th? Is there one today? So if they threaten you again, tomorrow, that they are walking away, is there any protection? So

Governor, we would implore you to look into this matter. Investigate the prior procurement. And the other immediate issue is looking ahead, is we're under a gag order. The department has been told by their counsel they cannot talk to us because there's litigation. Well, they can talk to us if they want to settle the claims. We heard them admit that the prior RFP was flawed. But last night they still filed a protest appeal at the Board of Contract Appeals that says they are still right. They won't tell the body, the agency we're in front of that they're wrong. They told in a letter that they were wrong but they still won't admit it.

And finally there needs to be some outside help in crafting your new procurement because the only way to attract new competition into this and make sure you have competitive bids and you are getting a fair deal is to probably reshape this whole thing and have some discussions with the experts that know what's going on in order to get a best deal for the State.

Mr. English is here if you have any particular questions about the pricing. He'll be happy to answer them. But Governor, we thank you for listening.

GOVERNOR HOGAN: Thank you. Anybody else need to testify? You know, I would second almost everything that was said by my colleagues. This is one of the most disgraceful displays of mismanagement I've ever seen in my entire life. One of the reasons why I ran for Governor, the first time I've ever held elected office, I'm a small businessman, I wanted to run the

government more efficiently and more cost effectively. I want to stop things like this from happening. That's what we're here for at the Board of Public Works. So I share all of the concerns.

I wasn't here for this debacle that took place right before my inaugural, had nothing to do with any of this that we're talking about today, but I want to help fix it. And I want to look at the best solution to the problem. I believe that we've got to figure out how to stop this from ever happening again in State government. The solution obviously we have to rebid the contract and/or provide the services ourselves internally as we do in every other prison in the State. Baltimore City Jail is the only place we don't do it ourselves. Maybe that's the most cost effective. I think we ought to look at every option.

My concern is what, the one we started out the discussion with. We can't have, we can't wake up tomorrow morning and not serve food to the prisoners and have a riot on our hands. And I don't see anyone able to step in and continue to take this over with 24 hours notice, which is what we're being given. So I don't see any alternative but to award the emergency contract so that we can continue to serve the food while we figure out the mess and get to a better solution. But I, I defer to my colleagues for any motion they want to make or any further comments before we wrap this issue up.

TREASURER KOPP: Governor, the, the Comptroller has made some very strong statements. I'm not sure that you could say what contract

you've ever seen is the worst of any other, what is a debacle, or what isn't. I do know that some of the things that were said at the last meeting were not accurate. The intention might have been to be accurate. They were not accurate. And we voted on the basis of that. I respect all the people who were involved. I do think that the department doesn't have enough people in procurement and the procurement wasn't done very well. I agree with everything you have said that we have to keep feeding the prisoners. We have a constitutional obligation.

I am concerned and would like to just be reassured again by the Secretary that this can be completed in six months, first of all. And secondly, while I don't agree with the tone in which the Comptroller suggested this be sent to the Attorney General, because all I have heard is that it is in fact legal, I do think for the sake of the department and the procurement agents that an objective look at it would probably be helpful both for this instance and for the future, and I would not disagree with his proposal. And I would just urge all the departments who are here, it, you've seen now for several months, it just is so much easier and better if you can just state the facts as they really are, as you, this goes for us as well as for the departments. And if there are questions unanswered just say you don't have the answer, you'll come back with an answer. If you believe something is so but not absolutely sure, say we believe it's so and we'll see if it's sure. I mean, that's the way you would deal with other people. It seems to me you ought to deal with the Board of Public Works that way, too.

MR. MOYER: Governor, if I may? Madam Treasurer, Mr. Comptroller, you all know my background. The people standing in this room do not. I retired as a Lieutenant Colonel of the Maryland State Police. I was the Deputy Secretary of that department. I worked in the Attorney General's Office for five of those years. I went over to Juvenile Services as a Deputy Secretary when there was a crisis in a boot camp and I am the one along with Bishop Robinson that fired people for doing bad things. I ran internal affairs for the Maryland State Police for three years. I know what corruption looks like.

My first job is, I got a call from the Governor's, back in November after the election. And he said, Steve, I want you to come back and run Public Safety. We've got some issues over there. And I came down, met, and I told him I would take the job. My number one focus is we still have corruption there. We don't do the right background checks on people and I need to clean that up. I'm focused on that.

After leaving the State Police I worked security at Shock Trauma, took care of some issues there, and I was the Deputy Chief of Police in Sarasota, Florida. My whole life I was raised to tell the truth and to be transparent. I know what sloppy looks like and I know what corruption looks like. All of you know my background. I assure you and promise you that this is a priority. I met with my Attorney General as to what actions I can take and I took these actions to make sure these inmates continued to be fed.

I will ensure you that I will beef up my procurement staff. I will tell them this will be done in six months. We're a couple months into that. And I will come back before this Board more frequently than my predecessors did. And thank you for your comments and your time today.

COMPTROLLER FRANCHOT: Thank you for that statement and I have complete confidence in you. And my views on this are well documented and my call for not your in house Attorney General but your, the real, the big Attorney General to take a look at this --

MR. MOYER: I've worked, I've worked, I worked in that office with Joe Curran --

COMPTROLLER FRANCHOT: Sorry about that, yeah.

MR. MOYER: -- for five years.

(Laughter.)

COMPTROLLER FRANCHOT: And, and because I think that would be helpful. But I am a little concerned if the counsel for the contesting vendor claims that we, have we given up our legal claims against this group if we find something that is, well, what is the legal, is Mr. Nathan still back there? Are we going to have any recourse if despite our best intentions this becomes a worse situation as far as Trinity? Oh no, as far as Crystal?

MR. NATHAN: Well first the Trinity matters are all pending before the Board of Contract Appeals. So all the, the bid protests and the

responses to the bid protests and the appeals by Trinity are all still pending before the Board of Contract Appeals. So that Board will have an opportunity to weigh in and provide its, its guidance on what should have happened here.

COMPTROLLER FRANCHOT: But are we going to be able --

GOVERNOR HOGAN: And on behalf of the Attorney General are you the one that's going before the Board on those contracts?

MR. NATHAN: Right, it's our team, our procurement team from the Attorney General's Office at Public Safety represents the department before the Board of Contract Appeals.

GOVERNOR HOGAN: So the Attorney General should be pretty well briefed on what's going on with the situation.

MR. NATHAN: Well the Deputy, the two Deputy Attorneys General have been briefed on this situation so they are aware of it, and we'll continue to brief them.

COMPTROLLER FRANCHOT: But let me just against my best wishes say something comes up where Crystal needs to be sued by the State. Are we, with this action today are we exempting them from that?

MR. NATHAN: No, I don't, I don't believe we are. But it, I would say at this point, at this point in time we don't believe, or at least it's my advice at this point, that we do not have any viable action against Crystal based on the issues that, that were caused by the procurement, the way the procurement

was, was fashioned and the contract was awarded. I mean, and let me be more specific on that.

COMPTROLLER FRANCHOT: I mean, that's a pretty extraordinary statement, isn't it?

MR. NATHAN: I believe that there were some issues with the RFP that would have made our case against, would have seriously weakened our case involving --

COMPTROLLER FRANCHOT: What's that?

MR. NATHAN: Well there's language in there that was, that was cited earlier about unless otherwise indicated in the procurement. I believe that there was contradictory language in the procurement with respect to the numbers that were given about the meals. And you have heard quite a bit about the meals. While there was language about we make no guarantee about the meals, there was also language in the RFP, in the, in the bid price form, that, that talked about the 22,300 price, a 22,300 number. So I think that there was such a significant difference between the numbers that were presented on the bid form and numbers that were presented in, in the body of the RFP that we thought that it would seriously weaken any case that we may have against Crystal about performance.

COMPTROLLER FRANCHOT: Even with the comments before this Board on January 7th?

MR. NATHAN: I'm sorry?

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COMPTROLLER FRANCHOT: Even with the very explicit comments from Crystal that they were aware of the fact that there was a possibility of going down even below 18,000?

MR. NATHAN: Right. And then, and there was the discussion that we had with the Secretary and the people in the department about the February number of meals we were told was 15,600. And is that significantly below? When, when Crystal said, and I don't want to make the case for Crystal necessarily, but that they say they could go to 18,000, is 15,600, the number from February, was that significantly lower than 18,000? See Crystal said, told us, that it could no longer perform the contract, that it was losing \$10,000 a day on that contract and it was going to walk out on the contract at the end of the month. You've heard about the criticality of serving food to, to the prisoners in the Baltimore region. There was a serious concern. I provided the legal advice. The decision makers in the department made the decisions. There was a serious concern that they had that there was going to be nobody to provide food starting February 28th. And so as the Secretary has indicated he made decisions in collaboration with the management team at Public Safety to go forward with the, with the emergency contract.

COMPTROLLER FRANCHOT: No, I have no problem with not interrupting prison service. What my concern is are we going to fence off our potential to go and ask this group Crystal Enterprises to repay the State of

Maryland monies that we're paying for this mess that they have created? They. Crystal Enterprises. And I mean look at the transcript. And if what you're saying is we're letting them off the hook legally, I am not very happy with that situation. And I would suggest, Mr. Secretary, that whatever you do you preserve the rights of the State of Maryland to take legal action against a company that would stand up and say things like they did in public and essentially deceive us.

TREASURER KOPP: Comptroller --

COMPTROLLER FRANCHOT: And I find that, you know, I --

MR. MOYER: I think Mr. Nathan said there's --

COMPTROLLER FRANCHOT: At least keep the option open of legal action.

MR. MOYER: I believe Mr. Nathan did say that option is still on the table.

COMPTROLLER FRANCHOT: He did say? So it is? We're not releasing them at convenience?

MR. NATHAN: I think the option, we're not releasing them from any potential claim. I mean, I guess what I was indicating was, and, and we would have to consult with the people in the Attorney General's Office about this. I'm not sure about the strength of the claim but we're not releasing them from, from their responsibility if it's decided that that's the path, the best path for the State to take.

GOVERNOR HOGAN: And you represent the Attorney General's Office.

MR. NATHAN: I'm counsel to Secretary Moyer.

GOVERNOR HOGAN: Are there any other questions on the Secretary's Agenda?

TREASURER KOPP: Mister, Governor, I just want to state something for the record because so much has been said. I have not seen, I do not believe in fact that there is corruption involved. I do believe that there is some degree of incompetence involved and some degree of miscommunication within your agency between the finance people and the procurement people as to what numbers to use. And I'm still confused because I heard earlier 15,600 and now you say between 16 and 17, and I don't know what a little under 18 is. But I think the difference between 18 and 15 probably is quite significant. That's not corruption, that's incompetence.

GOVERNOR HOGAN: Madam Secretary?

TREASURER KOPP: And my, let me --

GOVERNOR HOGAN: Sorry.

TREASURER KOPP: -- if Governor, you and the, you, you and the Comptroller want this to be sent for review to the Attorney General just to make sure there was no, nothing wrong I would not object to that because I think the, the suspicion and the charges are out there now and, and people ought to be,

it ought to be clarified, and people ought to be, not have to live under that sort of a cloud. But as far as I personally am concerned, I heard a lot of things and nobody should have told me one thing when it was another. I don't believe in that. But I don't see anything --

GOVERNOR HOGAN: Madam Secretary, what, the Secretary, let me just clarify, he's talking about corruption in his department not necessarily corruption with respect to this contract.

TREASURER KOPP: Oh, absolutely.

GOVERNOR HOGAN: Corruption is rampant --

TREASURER KOPP: Yes.

GOVERNOR HOGAN: -- in this department. There have been numerous indictments.

TREASURER KOPP: The Comptroller suggested there was corruption.

GOVERNOR HOGAN: There are going to be further indictments. We have prison guards, you know, colluding with the Black Guerilla Family.

TREASURER KOPP: Yes.

GOVERNOR HOGAN: It's, there's major corruption. We have the inmates running the institution and that's why we brought him in here to clear out the corruption.

TREASURER KOPP: But that's not Ms. Hopkins.

GOVERNOR HOGAN: So that's his primary focus is clearing out the corruption in this department, which is, you know, I don't think there was any prison in the country that had any more corruption than we had in this jail and that's what we're here to try to fix.

TREASURER KOPP: And, and --

GOVERNOR HOGAN: So it may, it may not be any corruption with respect to this contract.

TREASURER KOPP: Right.

GOVERNOR HOGAN: But his department we already know there have been numerous indictments and potentially more indictments to come.

TREASURER KOPP: And that's one of the reasons that I said in the beginning --

GOVERNOR HOGAN: And prosecutions. Convictions.

TREASURER KOPP: -- I'm so glad to see the Secretary back again.

GOVERNOR HOGAN: Yes.

MR. MOYER: Madam Treasurer, I have, I asked for those numbers in February when this was brought to my attention. I can provide those. And Mr. Comptroller, I did work in the Attorney General's Office criminal investigation division for five years. I know how to refer matters over to there.

So I will assure you and look you in the eye, if I see anything that I think is criminal I know how to make that referral as well.

GOVERNOR HOGAN: Are there any questions on the Secretary's Agenda? Any other issues or topics other than this one on the Secretary's Agenda? Hearing none, is there a motion on the Secretary's Agenda? Or is there a motion to separate this out in any way?

MR. CUSTIS: I would like to speak.

GOVERNOR HOGAN: Oh, I asked earlier did anyone from Crystal want to speak and no one stepped forward, so --

TREASURER KOPP: They were actually standing --

GOVERNOR HOGAN: Go ahead.

MR. ROTHWELL: Yes. I'm, just for the record I am Patrick Rothwell. I'm the attorney for Crystal Enterprises, Inc. I want to introduce you to Thurman Custis, CEO of Crystal Enterprises.

MR. CUSTIS: COO.

MR. ROTHWELL: COO. And Sandra Custis as the CEO and President. Oh, and I don't want to forget Reuel Williams, Manager.

MR. CUSTIS: Governor Hogan, Madam Treasurer, and Mr. Comptroller. I really appreciate the opportunity to give account for everything that has been being discussed. So first I'd like to address statements which I said when I came before the Board of Public Works in January.

One, regarding the bond we did have, as Ms. Hopkins said, essentially a letter of intent from a bond surety company. They cannot actually issue you a bond until you present them with a signed contract. And so the biggest thing that I could have at that moment in time we had. And as was also mentioned, when they read the newspaper article they rescinded that. So there was no deception. That's what I was communicating.

With regard to the meal count, this contract was bid by price per meal. And so without getting into the details there are fixed costs and then there's variable costs. So a lower meal count begins to impact your fixed costs. All of that is understood. It was only on the day of the Board of Public Works meeting where it was kind of whispered to us, the meal count is wrong, it's as low as 18,000. And so we are in, literally in the hall, crunching numbers, and we said, you know what? If it dips as low as 18,000, we can make that work, maybe even a little bit lower. At 15,600, and now the count is even lower, that is mathematically not possible to deliver the service that we agreed to. It represents millions of dollars in difference.

But it's not just the meal count of why we came back to the State, and I really want to make that clear. Day one when we came on that contract the facilities that were handed to us by Trinity were overrun with rats, roaches, mice, and birds. During our walk through we witnessed meals being prepared under grated ceilings which are covered with rat droppings. There's a major infestation

problem and it's additional food costs as they eat all of our, they eat into our dry storage goods and things like that. We are still working to complete that.

In addition part of the meal price is to include a million dollar budget for repairs and maintenance, that's an annual budget. We're spending through that now in the first two months of the contract because of the amount of kitchen equipment that is in complete disrepair. Based upon interviewing the existing staff, this has been not repaired for years. So we have toilets that don't flush, hand sinks that don't work, coolers that don't work, ovens that don't work, tray machines, none of the tray machines in any kitchen worked until Crystal had to come in and repair them. Prior to that staff were boiling water and washing 5,200 trays three times a day just to keep the contract going. And all of that has to be covered by the price per meal. We did not account for that amount of dilapidation.

We brought with us a full detailed list of all of the disrepairs which took a team of five two days to inventory and itemize all the things that are not working. So Crystal, who has a seven-year relationship with the State, and who won this contract in part because of our reputation for turning around another failed contract, that's why we got this contract. That's why we were brought here. We've been delivering all of these meals, dealing with the broken equipment, dealing with the infestation, and that's why we came back. And so I wanted to let Ms. Custis --

MS. CUSTIS: Yes. This, he's just giving you some background. But I just want you to know that despite the fact that the, we are without, basically our health inspections have not been passed. Trinity did not have health inspections that were acceptable and we were given 60 days from day one to pour hundreds of thousands of dollars into these facilities to, to pass inspection. We have passed, how many Reuel?

MR. WILLIAMS: We have three remaining.

MS. CUSTIS: Three remaining to, but this is what we have been dealing with. But despite all of the work around that we've encountered since day one, we have delivered 100 percent of the meals. And all of our audits have been passed, one 100 percent. Our client has reported to us that the quality of the meals is 110, this is quoting our client, 110 percent improvement over the previous contractor. In addition to that the rate in which we are repairing equipment and turning the facilities around is, is unprecedented. They, they are letting us know with weekly meetings how things are moving forward within our first 60 days. And this is really congruent with who we are, what our brand is.

As I said before in January we are an award winning firm. The reason we win awards is because of the quality of our service, the quality of our food, the state of our facilities. And just in March we won two additional awards, the Air Force Eubank Award. All of this has to do with who we are and what we're bringing to the Baltimore correctional food services.

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So we appreciate the opportunity to be here to provide these services. We have been very disappointed with what we were handed off, but we're moving forward with the intention of, of turning the whole account around. So thank you.

GOVERNOR HOGAN: Thank you.

MR. CUSTIS: And my final comment is just when we came back to the State it was not at all our intention to deliver some type of ultimatum or threat. It was basically informing them after being on the account for several weeks and getting a full inventory of what was really there that financially it was not viable for us to continue under those conditions. And I was very grateful that they were able, you know, willing to, to work with us. Our desire is to continue our relationship with the State and to even expand it. That's just what we want to leave you with.

GOVERNOR HOGAN: Thank you.

COMPTROLLER FRANCHOT: If I could just add my, I'm just astonished at your testimony. Because you claim that you're an award winning national company, and I was quite impressed with the fact that you do the Air Force Academy, and this, that, and the other thing. Did you even do a, did you happen to do a walk through on the pre-bid of the kitchen?

MS. CUSTIS: Several years ago, not on the --

COMPTROLLER FRANCHOT: Several years ago?

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MS. CUSTIS: Yes.

COMPTROLLER FRANCHOT: Why not on the most recent one? Isn't that standard business practice? And secondly, on February 24th did you tell the department that you were terminating the contract as of February 28th, four days later, if you didn't get a 53 percent increase? Is that standard business practice also?

MR. CUSTIS: I think you are referring to the written documentation which was presented on February 24th. The conversation began much earlier than that.

COMPTROLLER FRANCHOT: Well --

MS. CUSTIS: We were, we were in conversation with the State to work out how we could continue without bankrupting our company. We had no idea that hundreds of thousands of dollars would have to be poured in just to get a permit. There is no health permit in those facilities right now.

MR. CUSTIS: Still.

MS. CUSTIS: Because of the conditions.

COMPTROLLER FRANCHOT: Well I understand that's the --

MS. CUSTIS: And, and, and, excuse me, when we were in conversation it was, we have taken over another State facility where, that was deplorable, and the State took it over, revamped it, put it into condition, before they handed it over, handed it over to us. And we were under the impression that

that was going to be possible, that Trinity would be required to resolve all the violations. We have 11 pages, and I can make them available to you, 11 pages of violations that have kept us from getting permitted to operate those facilities.

COMPTROLLER FRANCHOT: But can you understand from our perspective, we voted for a \$37 million contract on your assurances that based on your national reputation and your, and the brand, that you would be able to perform. And what I'm told is that you gave four days notice to the State, put a gun to its head, and said you've got to raise the rates.

MS. CUSTIS: Well I think --

COMPTROLLER FRANCHOT: And I find that to be deplorable. And I don't, I'm not particularly impressed by the fact that you list a number of problems. Those are your problems in the private sector, you should have informed yourselves about the condition of the, of the facilities that you were taking over. You should have had everything negotiated so that your interests were protected. We're trying to protect the interests of the taxpayer. And I'm not taken in at all by your testimony. And I'm, I'm just, well I stand by my call. I think the Attorney General Brian Frosh should take a look at this from top to bottom. Because I just find it very troubling.

MR. CUSTIS: Yeah, I mean, yeah --

MS. CUSTIS: It is what it is.

MR. CUSTIS: Yeah, you know you're free to have your opinion. I appreciate that. I, I stand firm in my belief that Crystal Enterprises is the best option that the State could have in that facility, and we have the track record to prove it. And I guess that's all I could say.

GOVERNOR HOGAN: Thank you.

TREASURER KOPP: Governor, could I ask the Secretary if, have you been, is there anything that you heard here just now, the testimony, that you were not fully aware of?

MR. MOYER: I haven't even met the leaders from Trinity. This is the first time I've seen them in a room.

TREASURER KOPP: It's Crystal.

GOVERNOR HOGAN: Crystal.

MR. MOYER: I have gone, but my focus has been, I met with the U.S. Attorney, I've met with the Attorney General's Office to look at corruption issues my first couple weeks here. I have been into BCDC to, to --

TREASURER KOPP: I'm thinking more of the conditions in BCDC.

MR. MOYER: I've, I've toured BCDC from a, you know, looking into the cell areas and the rec area. I didn't, I have not been into the kitchen. No, I have not.

TREASURER KOPP: I am sorely troubled by this, this whole thing and I have great faith in you and I will go ahead with the Governor's suggestion. But I, I think we should hear back from you after you have had a chance to look and digest all this all. From what I'm hearing there are as many problems with --

MR. MOYER: There's --

TREASURER KOPP: There's problems all over, aren't there?

MR. MOYER: We go way back. You know, if there's a problem I'm going to fix it. I just need --

TREASURER KOPP: Yeah.

MR. MOYER: -- I've got so many different issues at one time, but that's not an excuse.

TREASURER KOPP: I see here that the, in terms of the daily meals they've gone from 16,500 to 18,800. That's not much lower than --

MR. MOYER: Madam Treasurer, that is the data that I requested from my Inspector General's office, and I had an extra copy and I made sure it came up to the table.

TREASURER KOPP: But I, I don't know what to say about what I just heard, take it under advisement today. There are a lot of charges that --

GOVERNOR HOGAN: Well what I think we obviously the new Secretary and his new team has got to get in there, do a thorough assessment of all these problems --

TREASURER KOPP: If we're not meeting basic standards --

GOVERNOR HOGAN: -- get them fixed as soon as possible. In addition to rooting out the corruption you've got to root out the mess in your kitchen.

MR. MOYER: Yes, sir.

GOVERNOR HOGAN: We've got problems throughout this entire department, particularly this jail. It's a disgrace. You know that. We've got work to do. That's why we've got you there to do it.

With respect to this I'm still of the opinion, we've got to get the bottom of what happened in the original bid. We've got to get to the bottom of why we gave wrong numbers. We've got to get to the bottom of why we have all these permit issues. But in the meantime we have to serve meals to the prisoners, which is why I don't believe there's any option other than doing the emergency contract while we take the time to do the thorough assessment and to make the bid and find the best solution to this problem.

COMPTROLLER FRANCHOT: I so move.

GOVERNOR HOGAN: Very good.

MR. MOYER: Thank you.

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GOVERNOR HOGAN: Thank you. Are there any other questions on other items on the Secretary's Agenda? Is there a motion on the entire Agenda?

COMPTROLLER FRANCHOT: Move favorable.

TREASURER KOPP: Second.

GOVERNOR HOGAN: Second? Three-nothing, Secretary's Agenda is approved. Thank you. Now let's move on to the DNR Real Property Agenda.

MS. WILSON: Thank you. Good morning, Governor.

GOVERNOR HOGAN: Good morning. Any questions on the DNR Agenda? Or I'm sorry, go ahead. Go ahead and tell us about the items you have.

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

GOVERNOR HOGAN: I was just, I was just getting a little impatient.

MS. WILSON: I understand. I understand. Emily Wilson with the Maryland Department of Natural Resources. I bring you places to play that support clean air and clean water. We have eight items and I'm happy to try to answer any questions.

GOVERNOR HOGAN: Any questions on the DNR Agenda?
Motion?

COMPTROLLER FRANCHOT: Move approval.

TREASURER KOPP: Second.

GOVERNOR HOGAN: Three-oh on the --

MS. WILSON: Thank you.

GOVERNOR HOGAN: -- DNR Real Property Agenda. Now the
DBM Agenda?

MR. BRINKLEY: Governor, Madam Treasurer, Mr. Comptroller,
DBM has submitted 14 items on today's Agenda. We are withdrawing Item 4-S,
leaving 13 items for your approval. And I have representatives here to answer
any questions you may have.

GOVERNOR HOGAN: Any questions on the DBM Agenda? Mr.
Comptroller?

COMPTROLLER FRANCHOT: Item 10.

MR. BRINKLEY: Question on Item 10, Secretary Moyer?

GOVERNOR HOGAN: It's a busy day for you, Mr. Secretary.

MR. MOYER: Yes, it is.

(Laughter.)

GOVERNOR HOGAN: Welcome back.

MR. MOYER: I haven't even, yeah. At least it's warmer today. On this particular issue I'm going to ask Joselyn to make comments on my behalf.

GOVERNOR HOGAN: Mr. Comptroller?

COMPTROLLER FRANCHOT: So you are recommending to us, Ms. Hopkins and Mr. Secretary, that we authorize yet another 12-month extension to your existing contract with Correct Rx for the delivery of inmate pharmacy services. For those of you without a score card, this would be the tenth, the tenth such extension of this contract that long ago frankly devolved into a comedy of errors.

I'll leave it to someone else to narrate the tortured history of this contract. But we're now heading into the tenth year in which Correct Rx has held this contract and all of these extensions have raised the aggregate value of the contract to a total of \$341 million.

Now I'm happy that the contract is in the hands of a good Maryland based company, whatever it's called, Correct Rx. Based solely upon what I've been told I have every reason to believe that they are doing a good job. That said, I think each member of, well I can't really say for that but soon the Treasurer sat through this, are wondering when is this all ever going to be resolved? And if and when we'll ever be able to put this contract back out on the street to ensure we're getting the best services at the lowest possible price? Can

someone speak to the current situation and give us some semblance of a realistic time table?

MS. HOPKINS: Sure. Some of the extensions were actually done when the procurement was being done by the Department of Budget and Management. I believe back in 2009 there was an MOU entered between DBM and Public Safety in which DBM was going to take over the procurements for all of the medical contracts. So medical, mental health, and, and pharmacy. So some of the extensions were done during the time when DBM was actually handling the procurement. They came before the Board asking for the award of the new pharmacy contract to a company called Diamond where there was going to be substantial savings to the State. The Board did not approve the contract, it was various protests filed, and ultimately after I believe two years of litigation DBM decided, and Public Safety decided, that they were going to cancel that. And then Public Safety was going to actually have to do the procurement.

So I believe in August of 2014 DBM and Public Safety agreed to terminate the MOU and the pharmacy procurement was going to have to be done by Public Safety. So that was, that decision was made just in August of 2014.

COMPTROLLER FRANCHOT: Okay. So the latest extension is for 12 months.

MS. HOPKINS: Yes.

COMPTROLLER FRANCHOT: And the clear assumption is we'll be all squared away by then. We'll be able to solicit, receive, evaluate bids, and award a new contract by June 30, 2016.

MS. HOPKINS: That is the plan.

COMPTROLLER FRANCHOT: And forgive me if I have a little less confidence than you that this is actually going to occur but let's assume I'm right. Instead of muddling through with yet another extension a year from June 30th, why don't we do a longer term deal and negotiate a longer term contract that includes a termination for convenience clause on the off chance that this ever does get resolved through a competitive bid?

MS. HOPKINS: Sure. I mean, the Secretary can speak to the extension. However, there is currently language in the contract modification, the current extension, that has that exact language in it.

COMPTROLLER FRANCHOT: Why wouldn't we do a multiyear extension?

MR. MOYER: Mr. Comptroller, I believe we will look at that. It has been recommended to me and we will definitely consider it. And based on your recommendation I'll take it back to my team.

COMPTROLLER FRANCHOT: Okay. And I understand from the background materials that you have been working on the solicitation but you cite that it's an exceedingly complex procurement. The procurement shop is

hindered by competing priorities, I guess food contracts and others, and inadequate resources. And I'm just not, I understand your comment, your response to the Treasurer. I think it's more than just vacancies in the procurement office. I think it's something that requires some expertise that, I'm not exactly sure where you find, find that. But this is an extraordinarily litigious contract right here and I'm wondering if you've thought about requesting additional outside expertise for the purpose of getting this whole mess resolved?

MR. MOYER: For procurements in general, I've, I will, I will, and I've started to take a new approach. I meet with the procurement team on a regular basis, weekly. We are starting to look at how we can support the procurement office, whether it's additional employees, expertise, or external expertise. And my plan will be within the next several months is that I will almost run a mini board internally to go over the types of questions that you all would ask me prior to coming down here and presenting this information to you. And if Jerry is looking for a retirement job --

COMPTROLLER FRANCHOT: Yeah.

(Laughter.)

MR. MOYER: I can do, I can do a contract right, right, Secretary -

-

(Laughter.)

MR. MOYER: Okay.

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GOVERNOR HOGAN: It can't be a single bid contract.

MR. MOYER: Okay.

(Laughter.)

MR. MOYER: But I, it's, I have multiple priorities but this has to do with multimillion dollar contracts and it's up there in the top, the top of my list.

GOVERNOR HOGAN: It's on the top of our list, too.

MR. MOYER: Yes, sir.

GOVERNOR HOGAN: Which is why we're going to totally revamp procurement throughout the entire State.

COMPTROLLER FRANCHOT: Good.

GOVERNOR HOGAN: And as we said earlier we're going to have the Lieutenant Governor together with the Treasurer and the Comptroller and others convene very shortly with taking a look at what we can do to improve things statewide.

MR. MOYER: Thank you, sir.

COMPTROLLER FRANCHOT: But --

TREASURER KOPP: But are you, so you're looking at the question of particular expertise for particular types of contracts?

COMPTROLLER FRANCHOT: Thank you --

MR. MOYER: Yes. Particular expertise for certain contracts, yes.

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COMPTROLLER FRANCHOT: Because, Madam Treasurer, thank you for bringing that out because this is a particularly protracted and costly and litigious contract that's been going on forever. So I, I think what you're talking about is prospectively new contracts. This one you may, might want to consider getting someone in to cut through the incredible back and forth.

MR. MOYER: Yes, sir. We agree 100 percent. We'll need the expertise. And as I mentioned the, my new Deputy Secretary of Administration brings a whole business approach to the way we are, are managing contracts.

GOVERNOR HOGAN: Great. Thank you, Mr. Secretary. Other questions on the DBM Agenda? Is there a motion?

COMPTROLLER FRANCHOT: I move approval.

GOVERNOR HOGAN: Second?

TREASURER KOPP: Second.

GOVERNOR HOGAN: Three-nothing on the DBM Agenda. Now on to the University System Agenda. Good morning.

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

GOVERNOR HOGAN: Any questions on the University System Agenda?

COMPTROLLER FRANCHOT: No, move approval.

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GOVERNOR HOGAN: Is there a second?

TREASURER KOPP: Second.

GOVERNOR HOGAN: Very good. Thank you.

MR. EVANS: Thank you.

GOVERNOR HOGAN: Three, the vote is three-nothing, University System Agenda. Move to the Information Technology or DoIT Agenda. Good morning, Mr. Secretary.

MR. GARCIA: Good morning, Governor, Mr. Comptroller, Madam Treasurer. I'm David Garcia, the DoIT Secretary. We have nine items on the Agenda this morning and we are withdrawing Item 6. I'll be happy to answer any questions.

GOVERNOR HOGAN: Questions on the DoIT Agenda?

COMPTROLLER FRANCHOT: Well, Item 9.

MR. GARCIA: Item 9. Yes, Department of Housing and Community Development.

COMPTROLLER FRANCHOT: So these proprietary contracts are pretty sifted all through different agencies. I've had a couple of them myself. They predate me coming on. This one predates you, obviously. It dates back to 1985. In fact it started before a lot of the people working for me were born. And it keeps getting renewed on a year to year basis. And I'm just wondering from a, some other perspective, do you ever consider getting out of the year by year and

utilize a, whatever leverage we might have by negotiating a multiyear contract with this firm?

GOVERNOR HOGAN: Mr. Comptroller, we have Secretary Ken Holt from DHCD who maybe can address this issue.

COMPTROLLER FRANCHOT: Oh, good. I just, Mr. Secretary, I just think it might save some money up front, provide everybody with a sense of predictability, and get out of these year to year renewals for proprietary contracts.

MR. HOLT: It absolutely makes sense that we conduct an RFP. I provided a handout. I think that, Madam Treasurer, if you could share that or if it could be passed on? We did a request for information. We contacted some outside vendors, three in fact, MIDAS, HDS, and ProLink Solutions. And if you could follow along with the report I have here I'll move through it very quickly. But it addresses I think all of your concerns.

Essentially there were three elements that were important to us. First, what was the risk in transitioning to another vendor? Secondly, what was the cost benefit analysis? And thirdly, what is the functionality and how long would it take to integrate a new system? If you take a look at the first summary it basically shows a risk comparison that indicates from low to high the risk associated with bringing on a new vendor.

Currently our existing vendor is fully functional and they provide modules that cover all of our single family housing, special loans, CDA finance,

division of credit assurance. It's a very sophisticated system that while it is long standing it has been customized annually. Our report at the back shows the annual customization and enhancements that are very important to recognize.

Essentially our mortgage portfolio is between 11,000 and 18,000 mortgages annually and the size of the portfolio between \$1.5 billion and \$2.5 billion. So it's a very, very sophisticated computer software system required to make all of this function.

The third party vendors, in every instance basically present a risk in conversion. And that risk is quite high. If on a scale of one to five the, AOD, our existing contractor, is a one, and the others range from 3.25 to four as far as a risk assessment.

If you can turn to your next page, the cumulative cost comparison suggests that in year one this contract which you are about to approve, it's a combination of maintenance and enhancements. The maintenance is about \$180,000. The enhancements that we may require are \$120,000. That cost is incrementally increasing about six percent per year. So over a five-year period the annual cost goes from \$300,000 to \$347,000 in year five.

To adopt a third party solution would in year one cost about \$1,880,000 and in year two \$542,000. So that's a \$2.42 million aggregate cost to transition away from a \$300,000 cost for a system that is fully executing the functionality that we need. And the cumulative cost over the five years is \$3.6

million for a third party solution versus a \$1.6 million to continue the process that we have.

And then as far as the functionality comparison, the third hand out, the existing contractor, we regard it as 98 percent functional. A hundred percent is perfect, nothing is perfect. In the first two years of conversion we would require that the existing contract continue on because the migration wouldn't really fully occur until year three. So in year one and two the third party contractors essentially provide zero functionality. We're using the initial contract that we're in. And over the five years essentially we consider that we'd get up to 78 percent functionality over that five years.

So in every instance, the cost benefit analysis, the functionality comparison, and the risk associated with doing the conversion, it does not warrant discontinuing the contract.

The fourth handout shows the enhancements or customizations that have occurred over, well, since the period 2007. And those enhancements have required 1,588 developer man hours, an average of 176 developer man hours annually. So that's five to six weeks of customization that has gone into this existing system. It is very sophisticated. I strongly recommend that you support this existing contract. I do, however, appreciate our requirement that we go back and take a look a look at this and we will next year submit an RFP to determine a competitive benefit, if there is one.

COMPTROLLER FRANCHOT: Well, thank you, Mr. Secretary. That's a very impressive presentation and I personally appreciate it. These proprietary contracts obviously they generally include instances like this, where the company that made and sold the software and only that company is capable of doing the kind of maintenance and extension that you just described, the kind of back end support. And I would like, I appreciate the fact that you would consider an RFP because I think that in some of these instances of these proprietary contracts makes sense even though, as you noted, there are some big transition costs. But I think the question I'll just leave you with on this one is let's assume that there's only one company that has a lifetime contract because it is proprietary software and only they can maintain it. What about negotiating a longer term contract with them and use the leverage of that to bring down the price?

MR. HOLT: That makes significant sense to me, absolutely.

COMPTROLLER FRANCHOT: Thank you. But thank you for the presentation. I found it to be very --

MR. HOLT: Okay. And as a point of personal privilege, I know we're busy, I'd like to introduce to the Board our new Assistant Secretary and Head of the Department of Community Development Tiffany Robinson, who has come to us from Harford County where she headed up the Community Development Administration there. And she's a champion volleyball player. She

led the UMBC team to the Southern Conference Championship in 1995 as co-captain and we're glad to have her aboard.

COMPTROLLER FRANCHOT: Fabulous.

GOVERNOR HOGAN: Thank you, welcome.

TREASURER KOPP: Welcome.

MR. HOLT: Thank you. Any other questions?

GOVERNOR HOGAN: Thank you, Mr. Secretary. Any other questions on the IT?

TREASURER KOPP: I have a question on number eight, the Board of Elections? Just a clarification.

MR. GARCIA: Yes?

TREASURER KOPP: I just want to make sure --

GOVERNOR HOGAN: I think we have Linda Lamone here from the Board of Elections.

TREASURER KOPP: The funding, explain again, if you would, where the funding is coming from?

MS. LAMONE: Good morning.

GOVERNOR HOGAN: Good morning.

MS. LAMONE: Linda Lamone, Governor --

GOVERNOR HOGAN: It's still morning, I guess.

MS. LAMONE: It is, still. And while I'm waiting for Nikki Charlson to come up who is the Deputy Administrator, I'd just like to as a personal privilege say thank you, Jerry, for all your help over the years. And whatever we can do to help you in the future, let us know.

This is Ms. Charlson, she's the Deputy. And she put together all the figures for this. And I just got an email from Secretary Brinkley's office that they are working closely together to be able to provide us with additional funds early in FY 2016 to --

TREASURER KOPP: So this is contingent on a deficiency?

MS. LAMONE: No. No.

TREASURER KOPP: So what is it? That's my question. What's the, what's the funding?

MS. CHARLSON: We currently have funding in our FY '15 contract for CSC and so that money, we have enough to get us through '15 and carry us into --

TREASURER KOPP: How much is that? I'm sorry if this question was a surprise. It wasn't intended to be.

MR. GARCIA: Yes.

MS. CHARLSON: So we have about a hundred and, we have about \$206,000 of our existing CSC line item in FY '15.

TREASURER KOPP: Okay.

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MS. CHARLSON: And so we also had some other money when we were moving, looking to build a new system to replace the existing one we had some money in our FY '15, so about \$300,000 there. But since we're not building the new system, we are going to just sustain the one we have through the 2016 election, that \$300,000 is available for us to use to maintain the existing system. The funding for this is 50-50 counties and State. So between the, about \$200,000 we have already for CSC, plus the \$300,000 that we have, that we were using to build a new system, we can spread that --

TREASURER KOPP: So you had 300, that's the answer I guess. You had \$300,000 you were going to use for another purpose. You're not using it for that purpose and it doesn't revert, it can be used for something else instead?

MS. CHARLSON: Yes. Yes.

TREASURER KOPP: And that adds up to 500. And you're saying then you get 500 from the locals? Is that --

MS. CHARLSON: Right. It's --

TREASURER KOPP: Or 400?

MS. CHARLSON: Yes.

GOVERNOR HOGAN: Was this, was this something that wasn't anticipated? Wasn't planned for? I mean, can you just explain what this million dollar contract is for and why?

MS. LAMONE: Yes, it's --

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GOVERNOR HOGAN: Why it's now coming before the Board on I think the last day that it's due, or no, no advanced notice whatsoever? I mean, did you just find out about it?

MS. LAMONE: We didn't, we found out we needed to do something in December when we got the software for the new voting system. We did not know how the operating system of the voting system would work until we actually got our hands on that software. And it took us, the staff, a couple of months to analyze what needed to be done to make the State's existing software work with the voting system. And when we finally decided what had to be done then we put this proposal together with CSC and it took the company a while to come back with their proposal. We looked at time and materials versus fixed price, picked the fixed price because it was less risk to us and, and we felt we could have less overtime and that kind of stuff in it. And --

GOVERNOR HOGAN: So at the time when we ordered the new system we didn't know it was going to take a million dollars to talk to the old system? Is that basically?

MS. LAMONE: Correct. And, and this, the State's system is literally the bridge between the voting system and everything else that goes on. It builds the ballots, it declares the results. And without it we would be dealing with 24 different databases to create the election. So the system is really very critical

for the process. And I have a diagram of what it does if you all want to look at it. It's kind of complicated. But --

GOVERNOR HOGAN: Does the new system that we purchased and the million dollars that we're spending now to talk to the old system, do either of them correct the problems that we had in the last election with those votes all across the State switching from Hogan to Brown?

(Laughter.)

MS. LAMONE: Yes.

GOVERNOR HOGAN: Good. Thank you.

(Laughter.)

COMPTROLLER FRANCHOT: I missed that.

GOVERNOR HOGAN: I am glad to hear it wasn't just fat fingers and long fingernails.

MS. LAMONE: Yes.

(Laughter.)

GOVERNOR HOGAN: That only my voters had. Any other questions?

TREASURER KOPP: Thank you.

COMPTROLLER FRANCHOT: I have a question on a different -

-

GOVERNOR HOGAN: Oh. Thank you.

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COMPTROLLER FRANCHOT: -- different contract.

GOVERNOR HOGAN: Thank you.

COMPTROLLER FRANCHOT: Is the Motorola contract on this
Agenda?

GOVERNOR HOGAN: I think you're, he's done with you, Linda.

MS. LAMONE: Oh you, I'm done?

GOVERNOR HOGAN: She's like, wow, that was easy.

MS. LAMONE: Oh, okay. Thank you. I'm sorry.

MR. GARCIA: That's okay.

MR. GARCIA: Item 7. Major Hasenei, would you like to --

MAJOR HASENEI: Sure.

COMPTROLLER FRANCHOT: Well I believe this is the contract
that the Board asked you to go back and look at. Because --

GOVERNOR HOGAN: Correct.

COMPTROLLER FRANCHOT: -- my understanding from one of
the previous meetings was that there was a request for a new addition of \$20
million from the taxpayers to pay for a maintenance contract. And I think the
Governor suggested or the Treasurer suggested that that be paid for out of the
existing contract and not from a new \$20 million addition.

MR. GARCIA: That's correct.

COMPTROLLER FRANCHOT: And that's what's coming back before us today?

MR. GARCIA: Yes. We're moving funds. And Major Hasenei would like to present.

GOVERNOR HOGAN: Good morning, Major.

MAJOR HASENEI: Good morning, Governor, members of the Board. Thank you. I'm Major Ken Hasenei. I'm the Chief Information Officer for the Department of the State Police and the project manager for Maryland First.

Mr. Comptroller, you are correct. The item before you today is not asking for more money. We are increasing the contract value on this important system for law enforcement and public safety across the State. Rather, we're under budget, which I'm very happy to report, substantially under budget on this project, and on time, on schedule. And what we're going to do and asking the Board to consider today is there are subscriber units, which are the handheld radios that we're purchasing, where there's about a \$20 million savings in that. Some of the State agencies estimated the number of handheld radios they would need. As a matter of fact, Mr. Comptroller, your office is getting 43. So they will have the benefit now when they have those interoperable radios and they are traveling the State and may come across an illegal tractor trailer transporting cigarettes or some other type of item, they will be able to switch to county, State Police, or other agencies to assist in stopping that vehicle and searching.

COMPTROLLER FRANCHOT: Excellent. And how much does the radio cost?

MAJOR HASENEI: Each radio individually?

COMPTROLLER FRANCHOT: Mm-hmm.

MAJOR HASENEI: It's about a \$6,000 radio, sir.

COMPTROLLER FRANCHOT: And those are Motorola --

MAJOR HASENEI: Yes, sir.

COMPTROLLER FRANCHOT: -- radios?

MAJOR HASENEI: Yes, sir. So your, your investigators will have interoperability with everyone else in the State and the counties that they travel. So in this case we have a savings of about \$20 million from the subscriber radios that we're purchasing and we're asking to move that \$20 million from the radio systems that some of the State agencies overestimated meeting and move that into operations and maintenance, in this case to pay for that. So we have I think done a good job of finding existing funding and moving that over to take care of that without asking for any more money.

GOVERNOR HOGAN: Well Major, thank you very much. I thank the Comptroller for pointing out that at an earlier Board of Public Works meeting we had a request to increase the contract by \$20 million. I refused to do so. My colleagues joined me in voting against that. We said go back and try to find it within the existing contract because they forgot to add it into their original

contract. So I want to thank you for going back to the contractor and helping to make that happen.

While we're talking about, seeing you up there reminds me of the fact that the Speaker of the House refused to read our supplemental budget across the desk, the first time in 25 years. We tried to add 100 troopers to the State Police. We tried to open the Annapolis Barracks. It would take us back to the highest level we've been in 12 years. I think we're one of the only states in the country that don't have a State Police Barracks in their State capital. It was a mistake. The total cost of all of that cost \$8 million. They refused to even put it on the floor for a consideration. And here we just saved \$20 million. I'd love to be able to take some of that \$20 million and reopen that barracks and hire those troopers that we desperately need.

MAJOR HASENEI: Governor, we all appreciate your support. As Colonel Pallozzi said, it's very important to us and we do appreciate you supporting that.

GOVERNOR HOGAN: Thank you, Major.

COMPTROLLER FRANCHOT: Well if I could, I'm keeping my own scorecard. Because I notice that there were items in the legislative session, not that I'm, I was distracted with processing the millions of tax returns so I'm happy to stay out of that. But I noticed that there were some items at the end that were, well compared to the entire budget, relatively small amounts. But to the

extent we can communicate through good administrative actions here that in fact considerable amounts of money can be saved and the same services provided, perhaps that will help the General Assembly, you know, view these situations like properly funding the pension in a little different light if they know that there's extra money freed up. So the scorecard is right now \$20 million to the good, unless the Governor takes \$8 million of it.

(Laughter.)

MAJOR HASENEI: Mr. Comptroller, I wanted to say that we are, we're about \$60 million below budget right now. Now we are getting ready to roll out to Western Maryland so there is a significant build out on towers and remediation and fiber that needs to go out there and the same issue for Southern Maryland so we may need some of that. But again --

COMPTROLLER FRANCHOT: Good. Here's a, here's a --

MAJOR HASENEI: -- I am very pleased to tell you that we're under budget.

COMPTROLLER FRANCHOT: I'm so glad you brought that up. Because I would like to ask you on behalf of the State of Maryland, and also frankly the item the Governor just mentioned, to be as tough as possible in looking for another \$20 million in this contract that can be returned to the Treasury in a metaphorical sense so that it could be recycled to resolve some of these disputes that, you know, are largely symbolic as far as I can tell. But they

are very passionately held by folks with different beliefs about priorities so they have managed to create some acrimony. So why not free up enough money to take care of that relatively, in a global sense, small amount of money? And I look at this contract because when it was approved I was very critical of the entire relationship because I just did not understand the extent of the commitment to Motorola. Great company, but very experienced in this. And they, I continue to be concerned about this contract. You mentioned interoperability of my people with county law enforcement. How many county law enforcements have joined this system?

MAJOR HASENEI: Well Talbot County has moved over, sir. And, you know, we're working with the counties now. In some cases the State system doesn't necessarily provide the county with what they are looking for specifically, who have other needs beyond our system, or they are using another system that is already in place. And as you know, radio systems are very expensive. So one of the advantages of this system is we work very closely with all the counties when we go there to ensure interoperability between their channels, fire channels, air to ground channels, and the State radio system. And I could probably sit here for about an hour and speak to you now about, we don't have time of course, about the successes on this between joint operations with State Police and Delaware State Police this summer in Ocean City, our successes with flooding, having multiple agencies on the same channels, chases going in the

State where we used to have to do it on a radio to be on the phone with the dispatcher who was on the phone in another state who was then trying to communicate to troopers in that state driving, and they were all driving very quickly. I've been in those situations. And, and so I would say the radio system has been very successful to date. And again, I could probably go on for about an hour about the difference incidences. The inauguration we recently had, the successes for the radio system on that and things that we were able to do that we weren't in the past. And we will certainly take under advisement about looking for other savings here.

COMPTROLLER FRANCHOT: Okay. Just a, I'm, this is just free advice. But as you move forward if you could please identify another \$20 million in savings.

(Laughter.)

COMPTROLLER FRANCHOT: Because this contract I agree is terrific for the State Police. I'm all for it. But it's a \$358 million contract. And these locals that supposedly are going to have to join in order to be interoperable are going to have to buy Motorola radios at \$6,000 a pop, which is a lot of money, and so far Kent and bless their souls Caroline, I guess, have come in. This is a big long term cash contract for Motorola. So don't be bashful in saying we need to have this fund balance at the end of the, just like, just like you are describing. So keep it under budget and be tough and bring us back some money.

MAJOR HASENEI: I will certainly do that, Mr. Comptroller. And I, and I think the counties do realize that whether they are with Harris radio or another radio system, radio systems are expensive, especially in the, in the spectrum we're using right now which is 700. I do think they've seen the advantages of moving to the State radio system that that provides them. I do think we are being very fiscally responsible and tough with the contract right now. So again, we will look at that but we still have a, a number of places in the State to build out yet that will cost money. And we're trying, you know, as we roll out those little segments we'll continue to be fiscally responsible in this.

GOVERNOR HOGAN: Major, thank you for your leadership and thank you for proving us right that we could save the taxpayers \$20 million on that contract. And please pass on to Colonel Pallozzi that I'm not going to allow the petulant and unprecedented action by the Speaker ignoring our supplemental budget to go. We're going to continue to push to open the Annapolis Barracks, regardless of what the Speaker says. And we're going to continue to fight to get those 100 troopers on the street because I know you need them. So thank you.

MAJOR HASENEI: Thank you, Governor.

TREASURER KOPP: Governor, I really regret that this platform is being turned into a partisan polemic. But let me just say that while I am not part of the Legislature at all, I do know that there are, there are older citizens in their home who hoped to have community programs that won't have them now.

There are children in the schools which will have fewer teachers now. There are pregnant women which will, who will not have family health now because of the things that apparently are not going to be funded, although provided for by the Legislature. There are different priorities. Everyone has different priorities. I understand that and I appreciate that. But there isn't just one way of looking at the world.

GOVERNOR HOGAN: Well I certainly agree with that, Madam Treasurer. But I would have to disagree with the way we went about this. The Constitution says when the Chief Executive Officer sends a supplemental budget it shall be promptly read across the desk. The Speaker refused to do so and even allow his members the right to consider this very important priority that they could even debate. It's only happened once before in history, and that was 25 years ago. So thank you, Major.

MAJOR HASENEI: Thank you, Governor. Thank you, Board.

TREASURER KOPP: I hope you'll see fit to help the children, the families, and the older citizens.

GOVERNOR HOGAN: We're doing everything we can for them.

TREASURER KOPP: No, not yet.

GOVERNOR HOGAN: Any other questions on the DoIT Agenda? A motion?

COMPTROLLER FRANCHOT: Move approval.

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GOVERNOR HOGAN: Second? Second.

MR. GARCIA: Thank you.

GOVERNOR HOGAN: Three-oh. Department of Transportation?

MR. RAHN: Good afternoon, members of the Board. For the record, I'm Secretary Pete Rahn representing the Missouri [sic] Department of Transportation. MDOT is presenting 15 items today.

GOVERNOR HOGAN: Do we have any questions on the Transportation Agenda? Anyone?

COMPTROLLER FRANCHOT: I have just one item. I promised the great George Jackson, who is someone on the Shore who has dedicated 20 years of his life to getting the Dover Bridge replaced, and now thank God you are in charge of doing it, Mr. Secretary. And I don't know what the process is but he has had some health issues recently and I think he is listening in. And if you could possibly take a look at the merits of perhaps renaming the Dover Bridge, or adding, adding his name to it. George Jackson is a, just an icon in my humble opinion for having pushed this issue for so many years almost by himself.

MR. RAHN: Well the project, the project is under construction and maintenance work is continuing on the old bridge but the new bridge is under construction. So his 20 years of effort paid off and the public will benefit from, from that and I, I will explore the appropriateness of, of naming that bridge that way. But --

COMPTROLLER FRANCHOT: Just don't name the old one after him. He's --

MR. RAHN: I don't actually know if there is a name associated with the bridge now or not.

COMPTROLLER FRANCHOT: Yeah.

MR. RAHN: So, but we, we will look at the appropriateness of naming that bridge.

COMPTROLLER FRANCHOT: Thank you.

GOVERNOR HOGAN: Thanks for getting it moving. Any other questions? Is there a motion on the MDOT Agenda?

TREASURER KOPP: Favorable.

GOVERNOR HOGAN: Three-oh on the MDOT Agenda. We'll move on to the General Services Agenda. Madam Secretary?

MS. BASSETTE: Good afternoon, Governor --

GOVERNOR HOGAN: Good afternoon.

MS. BASSETTE: -- Madam Secretary, Mr. Comptroller. For the record, I'm Gail Bassette, Secretary of General Services. The department has ten items on our Agenda and we'll be glad to answer any questions you may have.

GOVERNOR HOGAN: Any questions on the DGS Agenda? Hearing no questions, is there a motion?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Is there a second? Second.

COMPTROLLER FRANCHOT: Is there a vote?

GOVERNOR HOGAN: Is there a vote? Three-nothing.

TREASURER KOPP: Sorry.

COMPTROLLER FRANCHOT: Yeah --

GOVERNOR HOGAN: That, and thank you very much,
everyone. We are now adjourned, five minutes after 12.

(Whereupon, at 12:05 p.m., the meeting was concluded.)