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

**June 23, 2015**  
**1:03 p.m.**

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# **PRESENT**

## **HONORABLE BOYD RUTHERFORD**

Lieutenant 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 GARCIA**

Secretary, Department of Information Technology

## **MARC NICOLE**

Deputy Secretary, Department of Budget and Management

## **JAMES PORTS**

Deputy Secretary, Department of Transportation

## **EMILY WILSON**

Director, Land Acquisition & Planning, Department of Natural Resources

## **JIMMY RHEE**

Special Secretary, Governor's Office of Minority Affairs

## **MISSY HODGES**

Recording Secretary, Board of Public Works

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LARRY HOGAN  
GOVERNOR

STATE OF MARYLAND  
OFFICE OF THE GOVERNOR

June 23, 2015

Boyd K. Rutherford  
Lieutenant Governor  
State House  
Annapolis, Maryland 21401

Re: Delegation of Duties

Dear Lieutenant Governor Rutherford:

I will not be in attendance for the June 23, 2015 meeting of the Board of Public Works, and hereby delegate to you, pursuant to Article II, Section 1A, of the Constitution of Maryland, the duty of attending that meeting in my stead. I specifically authorize you to preside over the June 23, 2015, meeting in my absence and vote on all matters then presented to the Board of Public Works for its consideration.

Sincerely,

A handwritten signature in black ink that reads "Larry Hogan". The signature is written in a cursive style with a large initial "L".

Larry Hogan  
Governor

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# PROCEEDINGS

LIEUTENANT GOVERNOR RUTHERFORD: Thank you all for being here on this hot day. And it's pleasing that the good Secretary of General Services was able to get the air conditioner working. Yesterday it shut down in the building. So it got a little warm. We got to feel how it was in the, you know, the early part of the cent, last century, or two centuries ago, how it felt in this building. It wasn't bad downstairs but upstairs it just got warmer and warmer as the day went on.

You know, I'm, I'm here on somewhat short notice. But at the same time it's a carry over from the last Board of Public Works meeting where I was in. So some of you thought that I was not going to be around again and put you through the grief, but the substitute teacher is back.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: And with a, with a new lesson plan. I know that everyone heard the Governor's address yesterday and his condition and, you know, you'll be pleased to know and you noticed from yesterday that he, he is fighting through it. He still has the spirit and his sense of humor and everything else associated with the Governor. He's a fighter. We will keep moving forward. And his request of us was to just continue to do our jobs, which we will. And we'll continue to do that as he goes through this process.

And he will continue to work. I'm quite sure of that. He, as he said yesterday, he's a workaholic. So we were actually a little concerned because he was talking about coming back and doing the Board of Public Works today. And I mean he could have done it. But it wouldn't have been as fun as what I'm going to have. So.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: But this is just essentially a new challenge for him. And we, we are giving him our full support and support for his family, as well.

So with that, that's all I have to say. I'll turn it over to the Treasurer.

TREASURER KOPP: Well I just want to echo what, what you said, Mr. Chairman. Our, our hearts and prayers are with the Governor and the Governor's family as he fights this fight. I don't think anyone could say it as well as he did yesterday, though.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

TREASURER KOPP: He had a fight no one expected him to win in November and I will say on behalf of myself and my family, none of whom to my knowledge in fact voted for the Governor in November, that we are with him completely and look forward to having him in, in fighting, fighting stance again.

And, and to doing the work that the people of the State have, have chosen all of us to do.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you. And I guess since I'm sitting in for the Governor, he probably would say would they have told you if they did vote for us?

(Laughter.)

TREASURER KOPP: That's --

LIEUTENANT GOVERNOR RUTHERFORD: I know that's what Larry would have said, but --

TREASURER KOPP: Actually I do have my suspicions about that.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: Mr. Comptroller?

COMPTROLLER FRANCHOT: Thank God for the privacy of the voting booth.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah.

(Laughter.)

COMPTROLLER FRANCHOT: But thank you, Lieutenant Governor and Madam Treasurer. I personally am still in shock over the news that we received yesterday about my dear friend Governor Hogan. I don't think it's

news that Larry Hogan and I have a terrific and positive working relationship and we've developed that over the past several months and in the process have truly become good friends. And he is one of the most genuine, gracious, thoughtful people that one will ever meet in this business. But I can also tell you that he is, there is no more tougher or relentless fighter than Larry Hogan. And I am personally convinced that with the love and support of his extraordinary wife Yumi, his girls, his Dad, his entire extended family, he will beat this thing. He'll get back to the job full time. He'll be able to give his full and undivided attention to the fight against extensive, excessive spending, and excessive debt in the State of Maryland. And until then I'll continue to keep Governor Hogan and his family in my prayers, in our prayers.

As the Governor goes through his treatment and recovery, I am comforted to know that more of the day to day operations of State government are in the hands of Boyd Rutherford.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you.

COMPTROLLER FRANCHOT: I mean, this is one of the most highly qualified and effective public servants that I have ever worked with. And Lieutenant Governor Rutherford knows the workings of State government inside and out. He understands what we're doing well, where improvement is necessary, how we can save money while delivering a better product to the taxpayers who

we serve. Think of that. Not just looking at it, these contracts from transparency and competition, whether a good deal for the private sector or for the taxpayers, but how about for the people that the programs serve? Are they getting their money's worth?

And so frankly at the last Board of Public Works meeting anyone who might have thought that in Governor Hogan's absence this Board would somehow go soft on questionable procurements received a rude awakening. Governor, these obviously aren't the circumstances under which we would like to be sitting here today but please know that I stand ready to help you and your team in any way possible --

LIEUTENANT GOVERNOR RUTHERFORD: Thank you.

COMPTROLLER FRANCHOT: -- during the weeks and months ahead. Together we'll continue the work of our great State while keeping Governor Hogan in our thoughts and prayers.

And Governor Hogan, there are millions of Marylanders who are in your corner fighting for you. I'm happy to join them with my wife, and my Dad, and my kids. And we will be in your corner the whole way to your complete recovery.

TREASURER KOPP: Six million, just to count.

COMPTROLLER FRANCHOT: Excuse me?

TREASURER KOPP: Six million.

LIEUTENANT GOVERNOR RUTHERFORD: Six million, give or take.

TREASURER KOPP: Mm, give or take.

COMPTROLLER FRANCHOT: Millions, I said. Yeah, that too.

TREASURER KOPP: Six million.

LIEUTENANT GOVERNOR RUTHERFORD: Well thank you very much. And I guess we can start it with the Secretary's Agenda. Good to see you, Madam Secretary.

SECRETARY MCDONALD: Good to see you.

LIEUTENANT GOVERNOR RUTHERFORD: Good afternoon.

SECRETARY MCDONALD: Good afternoon, Governor. It is hard for me, too. Madam Treasurer, Mr. Comptroller. We do have 14 items on the Secretary's Agenda this morning and we're ready to respond to any questions you may have.

LIEUTENANT GOVERNOR RUTHERFORD: I have a question on number four.

SECRETARY MCDONALD: Sure, yes. Number four is the very interesting, I don't know if Mr. Cole is here or Mr. Carter Ward? The video lottery terminal small, minority, and women-owned business account, which is an

account of the Board of Public Works. One and a half percent of all proceeds from the -- Carter, you can come up, and whomever else. If Mr. Cole is here, or whoever else from DBED is here? One and a half percent of the proceeds from the video lottery terminals end up in an account at the Board of Public Works. And that money is to be spent on fund managers who will then make grants to small, minority, and women-owned businesses. And Mr. Ward is here to talk about the third year of the program for DBED, who is the agent of the Board in implementing the program.

MR. WARD: Good afternoon.

LIEUTENANT GOVERNOR RUTHERFORD: Good afternoon.

MR. WARD: Yes?

LIEUTENANT GOVERNOR RUTHERFORD: My question in turn has to do with the performance of the fund's managers. I received anecdotal information that there's some inconsistency when it comes to the, the lending standards and requirements. And I just wanted to understand why that's the case? Is this the lender of last resort? I guess that's the first question.

MR. WARD: We have been operating the program for the past, this will be the third year -- okay, I'm glad you're here.

MR. COLE: My apologies.

(Laughter.)

MR. WARD: I'm glad you're here. I was going to answer on his behalf, but anyway.

MR. COLE: I could hear the footwork.

LIEUTENANT GOVERNOR RUTHERFORD: Well, we'll ask you in a moment.

MR. WARD: I'll let him, Greg Cole, you can introduce yourself.

SECRETARY MCDONALD: You might to just say Mr. Ward is the director of procurement.

MR. WARD: Procurement.

MR. COLE: Yes.

SECRETARY MCDONALD: And Mr. Cole is the director of this program.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. COLE: I'm the director of finance, so your question runs more to me.

LIEUTENANT GOVERNOR RUTHERFORD: And you're Mr. Cole?

MR. COLE: I'm Greg Cole.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. COLE: Office of Finance Programs. I believe your question was is this a program, a lender of last support?

LIEUTENANT GOVERNOR RUTHERFORD: Resort, yes.

MR. COLE: It is not intended to be solely that. It is for small, minority, and women-owned businesses, which by definition though are not necessarily able to access funds in the private lending community. So oftentimes by that definition these are people who would not otherwise be able to borrow in the main stream.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm. Okay. Well like I said, I had received anecdotal information that some of the lending, or these investment funds, have required stricter requirements than others within this pool. And their requirements were very similar to what a commercial bank. As the one entrepreneur told me, if I had to provide this kind of collateral, or if I had this kind of collateral, I would have gotten the money from, you know, PNC. So do you talk to these fund managers about how they lend the money and what they are doing?

MR. COLE: We do not. We have not written policy for these lenders to control their activities. The original thought of the program was the best way to deliver small business lending was through professional lenders out in the community as opposed --

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. COLE: -- to a centralized DBED activity. So their approval may vary from fund manager to fund manager, depending upon the marketplace, what they're doing, the demand for their activities. I, I don't know the case in point --

LIEUTENANT GOVERNOR RUTHERFORD: How were they selected? How were these groups selected? Do they go through a procurement process?

MR. COLE: Yes, sir. They went through an RFP.

LIEUTENANT GOVERNOR RUTHERFORD: And how long ago was that?

MR. COLE: Well some of the fund managers, there are currently seven, there were originally in the 2014 round there were four.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. COLE: Then three more were added in '15. So there were RFPs during those two years. For this past year we did not take on any additional fund managers because the fund managers had explained to us we're hitting a point of dilution.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MR. COLE: We have seven fund managers and annue \$11.1 million. If we don't let them accumulate a critical mass of money they simply can't create a return to pay the expenses of operating their fund. So --

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. COLE: -- I want to differentiate the RFP from an application of people who have already been vetted through the RFP process.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Thank you. I'm not going to take too much longer. Madam Secretary, I believe we have a gentleman here who wanted to, to speak?

SECRETARY MCDONALD: Is Casey Jenkins here?

LIEUTENANT GOVERNOR RUTHERFORD: Do we, could I hear from him? Thank you. Thank you.

MR. JENKINS: Thank you. Thank you for allowing me the opportunity to come here and speak. I am, I am a small business owner in the City of Baltimore and have been for the past ten years. I am intimately familiar with the fund and there is a huge disparity. And we've tried to speak it out. We've tried to, to speak to some of the fund managers. And I'll give you, I'll be, I'll be very specific.

One of the groups, MMG, managed by Stanley Tucker, I think at best predatory lending, at best. And the reason I say that is because there are,

there, I know specifically of one restaurant that took the same exact package to the Meridian Group and another group that seems to work phenomenally called MCE, Joe Morris' group, doing a phenomenal job and actually funding small businesses. They are, they are offering support. They are offering, if, if there seems to be anything that's problematic, like with the recent downturn we had in the economy, they are, they are able to give assistance and grow because Joe Morris has been, and, and he's been an entrepreneur and he's been a financier for a number of years.

Now on the other hand we have the Meridian Group that I think that what they do is, not even I think, I know what they do is they fill you with hopes and dreams. And for an entrepreneur, we're looking for a little bit more than hopes and dreams. What we're looking for is we're looking for consistency. We're looking for funding. We're here to put the American dream to test. And some of the things that they've done, their board is near impossible to get past. This same, this particular restaurant went to MCE and went to the Meridian Group with the same exact package, the same exact collateral, the same exact project. And if I'm not mistaken, MCE put the loan through and everything worked out perfectly with just using, they used 100 percent, they are 100 percent collateralization and they used one of the properties that, that the restaurant owner had. The Meridian Group, same exact project, three homes had to be

collateralized with 80 percent equity in the first restaurant that that particular person owned. That's problematic to me. That sounds like predatory, that sounds like predatory lending to me. There, there, there's no chance for success for a small business owner, especially in Baltimore City, to be able to succeed under those conditions.

So I think what we need to do is we need to start looking at, we need to start looking at making structure for this. We need to start, you know, adding some type of guidelines that these companies follow. The Meridian Group has been around for years.

LIEUTENANT GOVERNOR RUTHERFORD: Mr. Casey?

MR. JENKINS: Yes?

LIEUTENANT GOVERNOR RUTHERFORD: Yes, I guess the only concern that we have, we're getting a little deep into the areas.

MR. JENKINS: All right.

LIEUTENANT GOVERNOR RUTHERFORD: I mean, and that's something --

MR. JENKINS: I'm passionate about this entire conversation.

LIEUTENANT GOVERNOR RUTHERFORD: I can tell. And that's something that I think I'd like to do is have you talk to my staff.

MR. JENKINS: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: And then we can go back and talk to DBED and possibly these, these entities. I'm not, I mean, I'm willing to go forward with this. But I did want to bring the attention that there were some concerns about some of the entities there.

MR. JENKINS: Thank you so much.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you. Thank you very much.

MR. JENKINS: Thank you.

MR. COLE: What the gentleman is referring to is one of the reasons that we did not set up specific franchise or trade areas for the fund managers.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. COLE: All seven fund managers compete --

LIEUTENANT GOVERNOR RUTHERFORD: So they compete --

MR. COLE: -- throughout the entire State. So --

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. COLE: -- and I would love to take it up with you offline about Meridian Management Group, because they have managed the State's Small Business Development Financing Authority since 1996, I believe.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. COLE: And has been satisfactory in all respects. But --

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MR. COLE: -- on a case of any --

LIEUTENANT GOVERNOR RUTHERFORD: Well it's always worth taking a look.

MR. COLE: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: Particularly when you're in, you know --

MR. COLE: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: -- on board for a long period of time it's worth looking to see what's going on.

MR. COLE: And in the case of an individual credit like this, I'd like very much to talk with him and determine what the issue is.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Well thank you. Thank you very much.

MR. COLE: Mm-hmm.

LIEUTENANT GOVERNOR RUTHERFORD: Very quickly, number seven. That's Maryland Environmental Services.

SECRETARY MCDONALD: Is Ms. Frketic, there's Ellen Frketic in the back of the room approaching. And this is the wastewater treatment plant.

LIEUTENANT GOVERNOR RUTHERFORD: Hello.

MS. FRKETIC: Good afternoon. Hello.

LIEUTENANT GOVERNOR RUTHERFORD: Now this is a, there was something I didn't quite understand, that you're adding to it and maybe this is a typo?

MS. FRKETIC: Yes, there is a typo there. I noticed that when I got here --

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MS. FRKETIC: -- and went, oh God, no, a typo. Yes. There were insufficient funds to add this to the project when we first awarded the contract.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. All right.

MS. FRKETIC: So we got additional funding now.

SECRETARY MCDONALD: We'll make that change for the record.

MS. FRKETIC: Thank you.

SECRETARY MCDONALD: That second sentence under remarks will say however funding was not sufficient --

MS. FRKETIC: Sufficient, thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Right. And there's an additional period there, too.

SECRETARY MCDONALD: Okay.

LIEUTENANT GOVERNOR RUTHERFORD: I guess, and maybe this is a standard process that we can go to the Board when we don't have sufficient funds and then just come back when we have more funds. Is that the best way to do business?

MS. FRKETIC: This work, we had always intended to do it and we, we wanted, but we needed, we had compliance issues. We had to get the contract awarded to get the treatment plant itself upgraded. Is it the best? I don't know. It gives us, the way we look at it is it's given us flexibility so that if we have the money we can add this in at the time of award or shortly after. Because the original contract was awarded back in the late fall, I think it was November of last year. So we had been waiting to see if our funding, additional funding was going to be approved during the Legislature.

LIEUTENANT GOVERNOR RUTHERFORD: And so no work has started on this?

MS. FRKETIC: The project itself, yes. The actual liquid portion of the plant, if you want to call it that, has started.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. I guess I just, I'm not crazy about that.

TREASURER KOPP: So what is this? What is --

MS. FRKETIC: This is actually sludge treatment. It's taking the solids portion and it, and it helps us dewater it more, treat it so that we can dispose of it as more of a resource. We're treating it properly to meet regulations. We're getting more water out so we're hauling less water so that as far as disposal cost goes it's going to save the State some money.

LIEUTENANT GOVERNOR RUTHERFORD: It's lighter. So is it used as compost? Or just used as filler?

MS. FRKETIC: No, this is just, it's going to be, it's going to be land applied to farmland.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. All right. Okay. I, I guess I just don't care for the coming when you don't have enough money, you award a contract --

MS. FRKETIC: Mm-hmm.

LIEUTENANT GOVERNOR RUTHERFORD: -- and then you come back when you've got money. I just don't care for that.

TREASURER KOPP: Let me ask you.

MS. FRKETIC: Yes?

TREASURER KOPP: If, if, if there had not been the money in the 2016 capital budget, would the project that you've started be completed and self-sufficient? Or was this actually a necessary part of the project?

MS. FRKETIC: We would have, we would have been able to meet our discharge permit. Which was, you know, we needed to get ENR level treatment at Freedom. So that part of it could have been done, and that was what was originally awarded. This was something that was needed because the equipment that we have out there right now is more than 20 years old, it was installed back in the early nineties, it's on its last legs. So we needed, it's not like we could put this off forever. It needed to be done. And we were hoping that by awarding it to the contractor that we have on site already as part of the bid, doing it this way would save us in mobilization and demobilization costs.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

COMPTROLLER FRANCHOT: Years ago, I had a favorite uncle. He was a major partner in a big New York City law firm, and I was starting out in my private sector career and I wrote him a letter asking him for help with introductions to people in New York City. And he sent it back to me and he said, Nephew, I like you a lot but there are too many typos in this letter. And that was probably 40 years ago. I don't think I've had a single typo since then anywhere.

MS. FRKETIC: Since then.

COMPTROLLER FRANCHOT: So Lieutenant Governor, soldier on. I, you just keep reading --

MS. FRKETIC: Well --

COMPTROLLER FRANCHOT: -- and this is a --

MS. FRKETIC: -- my mother was a schoolteacher so she would probably be horrified if she saw this right now and saw my typos.

LIEUTENANT GOVERNOR RUTHERFORD: Well I put a lot of burden on myself because when I raise these typo issues then it means anything coming out of my office has to be typo free. So --

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: -- so it's, I put it on myself as well. All right. I guess I, we have to look at how these, these items are brought.

TREASURER KOPP: Yeah. It was just brought to my attention that one of the reasons it's here is because it's the use of bond funds and the Treasurer's Office has insisted that when these come back with the use of bond funds that they come to the Board of Public Works when they might not have had to otherwise just to be clear. And it was a good directive, I believe, they should come back.

MS. FRKETIC: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Oh yeah, they should come back.

TREASURER KOPP: Yeah.

LIEUTENANT GOVERNOR RUTHERFORD: But I still don't like it.

TREASURER KOPP: Yes. No, I --

LIEUTENANT GOVERNOR RUTHERFORD: Okay. I'm not sure it's the best way to do things. I think we should appropriate, we should do the work, and appropriate and ask when we have the money and not come back piecemeal on it. But thank you very much.

MS. FRKETIC: Okay. Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: This is more of a direction in terms of eight and nine in terms of the Morgan. And I think it's one where I think Roy, who is here, Roy McGrath may want to meet with you all at Morgan. We've had similar discussions with your friends at the University System in terms of how to present these types of contracts where you're sending the bid packages. Because the challenge I think for someone like myself, who is in and out of Board meetings, does not necessarily have the history. And so when you come in with a new bid package, like in the first one for the construction

management, \$6.4 million, there's reference to prior language. And then the next package is for \$10 million. It doesn't have what the total estimated cost is. So what I'd like to do is ask Roy McGrath, who is on the Governor's staff, to meet with you to talk about how you can present this in a way that is consistent with how we've asked, we sat down with the University System and asked them to present their material in a particular way and I think it would be good to have that consistency.

MS. MCCALLA: Okay. No problem.

LIEUTENANT GOVERNOR RUTHERFORD: So I'm not, I'm not criticizing those, those two items. But I am criticizing ten. More of a question, because you're adding, this is a change order due to adding roof replacement. And my question is wasn't the roof leaking when the first contract was let? The material says that it leaks every time it rains. It probably was already going on. So I'm, I get a little bit concerned when I see that because it means you didn't go back out and compete it, or that you could have put it all in one package. One of the two things.

MS. MCCALLA: Yes, it was. And --

SECRETARY MCDONALD: Kim, could you just introduce yourself?

LIEUTENANT GOVERNOR RUTHERFORD: Oh yes, it's --

SECRETARY MCDONALD: Could you introduce yourself for the record?

MS. MCCALLA: Oh I'm sorry, I'm Kim McCalla, Associate Vice President of Facilities, Design, and Construction at Morgan. And the first part of the contract was to take care of the, primarily to take care of the skin of the building, to make it look better.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MS. MCCALLA: And after further investigation, we've been trying and patching the roof and it just wasn't holding. So I just made the decision that it was better to replace the roof, as since we're going and making all these other changes to stop other leaks, to take care of this one now. And we issued the change order, or would like to issue the change order to do it.

LIEUTENANT GOVERNOR RUTHERFORD: Right --

MS. MCCALLA: So the other issue, he has other work on the roof to do and it was going to be difficult to bring in a different contractor to do that roof repair without holding this contractor up to finish the roof materials that he had to do.

LIEUTENANT GOVERNOR RUTHERFORD: No, I, I mean I understand the efficiency of having the same contractor on site. It's just a question of, you know, it's almost the chicken and egg. If you're handling

leakage that's coming in from seeping in the windows and the, the brickwork, that you would think that maybe you should start up top where most water hits the building. And you already had a leak there, and you'd been patching it, that it could have been included in the original procurement versus kind of an add on to an existing. So like I said, the concern that it raises with me is that it's a way of avoiding another competition, or it just was lack of foresight in terms of going forward in the very beginning.

MS. MCCALLA: We were trying to take care of it in other ways and it just wasn't working.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. All right. Okay. Well I mean --

MS. MCCALLA: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: -- any other questions?

COMPTROLLER FRANCHOT: No, I'm delighted to hear all the questions.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: I know I'm keeping everybody here longer. But at least the air conditioner is working so --

(Laughter.)

MS. MCCALLA: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you, Madam Secretary. Okay. But thank you. Lastly, and this is probably more for my colleagues here, is Larry Jenkins is being added to the Retirement Agency?

TREASURER KOPP: Larry Jenkins --

LIEUTENANT GOVERNOR RUTHERFORD: Jennings, Jennings, I'm sorry.

TREASURER KOPP: Larry Jennings is presently a public member of the investment committee of the board.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

TREASURER KOPP: The board has an investment committee made up of trustees and three public members. Mr. Jennings has served two -- a term, one term? And we put out a notice that his term was expiring and, and a notice of interest from, from other people to take that position. Mr. Jennings also put his name in. In fact, Mr. Jennings was the only one who put his name in. And so the, the committee suggested and the board confirmed the reappointment of Mr. Jennings.

Mr. Jennings has been a very strong member of the investment committee, with particular interest and knowledge in, in, in a part of the investments that we, that we needed assistance in. He has come to every meeting.

He has been a full participant. And won the unanimous support of the members of the board and perhaps the Vice Chair of the board would like to --

COMPTROLLER FRANCHOT: No, I nominated Mr. Jennings for his first term. He's a terrific entrepreneur. He's on the board I believe at Morgan State and also Carnegie Mellon in Pittsburgh. And I was delighted to nominate him. It turns out he doesn't always agree with me, but that's okay. He is a very distinguished private sector advisor to the investment committee. He doesn't have a vote on the board but I have a lot of confidence in his private sector experience. And as the Treasurer said, he shows up for every meeting that he's supposed to be and he's very active in giving his insight, so I'd love to see --

TREASURER KOPP: Governor, could, could I also say I was taken a little off guard and I misspoke. There actually were three people.

LIEUTENANT GOVERNOR RUTHERFORD: I was going to ask about that.

COMPTROLLER FRANCHOT: Yes.

TREASURER KOPP: Yes, there were.

LIEUTENANT GOVERNOR RUTHERFORD: Did no one not want this job?

TREASURER KOPP: And they were all outstanding.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. I was going to say.

TREASURER KOPP: And we hope in fact to have the opportunity to use the talents of all three of those --

COMPTROLLER FRANCHOT: Yep.

TREASURER KOPP: -- of those individuals in, in one capacity or another. And in fact I look forward to talking to your staff about one of them in the immediate future.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

TREASURER KOPP: But yes, we had three. They were all knowledgeable. But Mr. Jennings really won the support --

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

TREASURER KOPP: -- of the members of the Board.

LIEUTENANT GOVERNOR RUTHERFORD: Well that's, that's more reassuring that he wasn't the only --

TREASURER KOPP: Yes. No, he was not.

LIEUTENANT GOVERNOR RUTHERFORD: -- applicant.

TREASURER KOPP: I don't know why I said that.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. But he's just at the head of the class. So okay. I don't have any other questions for the Secretary's Agenda.

COMPTROLLER FRANCHOT: Move approval.

LIEUTENANT GOVERNOR RUTHERFORD: Do we have a second?

TREASURER KOPP: Second.

LIEUTENANT GOVERNOR RUTHERFORD: All in favor?

THE BOARD: Aye.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Thank you, Madam Secretary. Next is Department of Natural Resources.

MS. WILSON: Good morning, Lieutenant Governor, Mr. Comptroller, Madam Treasurer. Emily Wilson with the Maryland Department of Natural Resources. We have ten items on our Agenda today. I'd be happy to try to answer any questions.

LIEUTENANT GOVERNOR RUTHERFORD: I have a question on 5A, Program Open Space.

MS. WILSON: Mm-hmm.

LIEUTENANT GOVERNOR RUTHERFORD: And some of it is just understanding the scoring.

MS. WILSON: Okay.

LIEUTENANT GOVERNOR RUTHERFORD: I see that you, in this case it was 103. I saw another one, if I look at six and seven, in the case of six it's 32, and in the case of seven it's 19. What's the, what is the scale?

MS. WILSON: It runs generally, we consider anything about 75 or 80 and above to be ecologically significant. So with Item 5A with a score of 103, that is particularly ecologically significant.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MS. WILSON: This is in an area that is a lot of contiguous forest. It's near the Appalachian Trail. This will provide a nice buffer to that Appalachian Trail area and a nice viewshed, which is really kind of one of the main points when you're going along that Appalachian Trail. You don't want just a little tunnel vision there of just the trail but part of the beauty of that trail is that you can look out, you know, all around that landscape and see these protected areas. So that's really important from that standpoint.

Some of the lower scoring ones, for example the one you mentioned, 6A, that might be a lower score in terms of ecological significance but we also look for really significant recreational opportunities. And that's exactly what 6A provides in Garrett County, being a nice gentle slope right onto Deep

Creek Lake. So it will be a great public access water site that's sorely needed in that area.

LIEUTENANT GOVERNOR RUTHERFORD: So yeah, I just, it stood out because of the cost in particular for one acre. But --

MS. WILSON: Right.

LIEUTENANT GOVERNOR RUTHERFORD: -- you're paying the development rights. I will get to this with Transportation, but it struck me reviewing the Program Open Space that we were, in the most case we were buying at the top range of the appraisals and there is a Transportation matter where we're selling property at a, for less than what the appraisal. So it sounds like we're, we're buying high and selling low when it comes to property. Now I know you don't have anything to do with Transportation, and I'll turn to Secretary Ports on that, but you guys seem to be buying at the highest rate. Do you walk in and say I want the property and how much will you sell it for, to me for?

MS. WILSON: No, not at all. Actually we have actually worked really hard since probably about FY '11 to obtain discounts on a lot of the properties. And I think since about the FY '11 timeframe we've been able to save roughly \$12.5 million through voluntary discounts from landowners. So, you know, we have, and we have an appraisal range and we have a review appraiser that provides, you know, an accepted appraisal range --

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MS. WILSON: -- after he reviews those independent appraisals. And we get those properties within that accepted range. The circumstances sometimes dictate that, you know, we do negotiate within that range, and that's why we have that range to be able to work within that frame there. It's true that we're not always able to get on the lower end. But on a property that is desirous for us, particularly if it's an inholding or a really strategic location, you know, then we do try to work as best we can with the landowners on that.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. And I do believe we, we should preserve land. I've had a concern about Natural Resources in terms of their, their Open Space program because you have a, the whole idea of procurement really is to have an arm's length relationship, that you have an objective procurement officer, contracting officer who is able to distance himself from the passion of the purchase. And you know, Department of Natural Resources is in the business of conserving land. So all land probably looks great to you guys. And so you don't have the person who's walking in and says, oh, that's a bad deal. You know, or that's, versus, oh, the appraisal is for \$372,000? We'll pay \$372 and not a penny more. Or, so that's a policy concern and we'll have to address that maybe in legislation or something later. So any questions?

TREASURER KOPP: Yeah, could I just say for the record, Governor, that in this particular instance I'd say we do have a letter that I think we all just received from Senator Edwards on behalf of himself and Delegate Beitzel --

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

TREASURER KOPP: -- who had some question about the property in fact and went back and looked at the appraisals and found in fact that, that not all of the value of the property had been included in those first appraisals, specifically as you point out some of the development rights --

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

TREASURER KOPP: -- like the boat slip and the connection to public sewer. And, and sort of made it clear --

LIEUTENANT GOVERNOR RUTHERFORD: Yeah --

TREASURER KOPP: -- and I just wanted to go on record citing that --

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

TREASURER KOPP: -- and so the folks --

LIEUTENANT GOVERNOR RUTHERFORD: Yeah, I, I understand this. This was much more for access. I mean, it stood out --

TREASURER KOPP: Yeah.

LIEUTENANT GOVERNOR RUTHERFORD: -- because it's a million dollars for one acre. But it's --

TREASURER KOPP: Absolutely. It sounds like Montgomery County.

LIEUTENANT GOVERNOR RUTHERFORD: -- in Montgomery County, yeah, you could put a Montgomery County house there. Yeah, it, yeah, it stood out because of that. But I understand access and the development rights probably because I think you could put four properties there, four --

MS. WILSON: Correct. Correct.

LIEUTENANT GOVERNOR RUTHERFORD: -- four summer homes.

MS. WILSON: Lakefront.

TREASURER KOPP: I think it would, just to build on what you said, I think it would be useful, in addition to what you were saying, if, if you or somebody could walk through for us both for this and for Transportation just the process that is used and how you get to those --

MS. WILSON: Right. Yeah, I was going to sort of --

TREASURER KOPP: -- conclusions? Not at this moment.

MS. WILSON: -- yeah, if I may, I mean, we, we, we actually don't just look at every property and say, oh my God, we have to have that.

There's a really disciplined process that we go through, beginning with, you know, us being made aware of a potential property for acquisition. And then at that point in time we run it through what we call our stewardship process, which is an interdisciplinary process that the potential acquisition is run through the different land managing units and other units within the Department of Natural Resources in addition to other State agencies like Maryland Historical Trust. And they have a chance to weigh in on that property from various and sundry aspects, be it ecological, recreational, fishing access, water access. Are there historic components to it, what encumbrances are there on that property, what are the red flags? We get a title report to make sure, you know, to identify any of those red flags so we know with what we're dealing from the beginning. And then it also gets scored through that ecological assessment and it gets mapped, you know, so we can have a, a picture. You know, I don't know about you but I'm a pretty visual person. It's very helpful for me to see where it is on a map in terms of where it is in the State or the county, and in relation to existing DNR lands that we have.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MS. WILSON: And, you know, there are times, yes, when a property goes through that stewardship process and it's not recommended for one reason or another for acquisition. One of the big things that we look at is a

willingness to manage by one of the DNR land managing units. So if, if there's not that willingness to manage well then there's certainly no reason to, to acquire that property.

So any property that you see that comes before this body has already, has really gone through a rigorous review process to make sure that it is something worthy of acquisition. And we do, you know, by law we are required to obtain two, at least two independent appraisals. There are some times where we get more than that. And these are independent appraisers, you know, in the private sector that do these appraisals. And then we receive the appraisals and they are reviewed by our review appraiser similar to the process within the Department of General Services. And that review appraiser provides a recommended value range. Or if he sees something wrong with the appraisals, then that's made known to us and then we can either stop the process at that point or reorder appraisals and rework our guidelines for those appraisals to make sure they understand --

TREASURER KOPP: And does that happen often?

MS. WILSON: It doesn't happen often, but it does happen, mm-hmm.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. I, I guess I still feel there's not the objective look at it. I mean, the Maryland Historical

Society is just like DNR in terms of they love the stuff that they see, versus somebody who can sit back and doesn't have a, you know, any, they don't have any necessarily, you know, skin in the game and they can take that cold, you know, dispassionate look at it and say I don't know if we should be doing this or not. But that's, that's a policy issue that I'm not here to talk about.

TREASURER KOPP: Can I just ask one more question?

LIEUTENANT GOVERNOR RUTHERFORD: Absolutely.

TREASURER KOPP: In that process, when do you look at the impact of impending climate change?

MS. WILSON: We actually do that through that stewardship process. So our Chesapeake and Coastal Services Unit weighs in --

TREASURER KOPP: So we're not buying land that's going to disappear without us --

MS. WILSON: Correct.

TREASURER KOPP: -- anticipating it?

MS. WILSON: That's right.

TREASURER KOPP: Or simply because of storm surge and sea level rise?

MS. WILSON: Exactly. So anything, you know, that, that we know is going to be inundated within, you know, by two feet within 50 years, you

know, we've already taken that into account in terms of how we assess properties and the scoring system. Yes, so those, no, we are, you know, so that actually shrunk the targeted ecological areas from that standpoint.

LIEUTENANT GOVERNOR RUTHERFORD: Hm.

MS. WILSON: Mm-hmm.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

Interesting.

TREASURER KOPP: Thanks.

LIEUTENANT GOVERNOR RUTHERFORD: Any other questions on DNR?

COMPTROLLER FRANCHOT: Move approval.

LIEUTENANT GOVERNOR RUTHERFORD: We have a motion, and a second?

TREASURER KOPP: Second.

LIEUTENANT GOVERNOR RUTHERFORD: All in favor?  
Thank you.

MS. WILSON: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: We have, Madam Secretary, the next is?

SECRETARY MCDONALD: Management and Budget.

LIEUTENANT GOVERNOR RUTHERFORD: Oh, I'm sorry.

SECRETARY MCDONALD: Deputy Secretary Nicole --

COMPTROLLER FRANCHOT: No, I've got an, I've got an item  
and he's got --

MR. NICOLE: Good afternoon, Governor, Madam Treasurer, Mr.  
Comptroller. DBM has submitted 20 items for today's Agenda. We have  
representatives here to answer any questions you may have.

LIEUTENANT GOVERNOR RUTHERFORD: Can I just --

COMPTROLLER FRANCHOT: Go ahead.

LIEUTENANT GOVERNOR RUTHERFORD: -- interrupt  
something? I just noticed the dapper gentleman sitting in the front row.

TREASURER KOPP: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: And I guess I did  
not recognize him earlier. Mr. Franchot?

COMPTROLLER FRANCHOT: Yep.

LIEUTENANT GOVERNOR RUTHERFORD: I think you are  
related to this young man beside me? Thank you. Thank you for being here.  
Bring Dad to work today?

COMPTROLLER FRANCHOT: Yep. Yes.

LIEUTENANT GOVERNOR RUTHERFORD: All right.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: My daughter actually --

COMPTROLLER FRANCHOT: He's my new advisor.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: Ah, okay. Well, thank you. And thanks for the indulgence. I'm sorry to interrupt.

MR. NICOLE: Governor, as I said we have representatives here to answer any questions you may have on our 20 items.

LIEUTENANT GOVERNOR RUTHERFORD: Well I want to start with number one if --

COMPTROLLER FRANCHOT: Go ahead.

LIEUTENANT GOVERNOR RUTHERFORD: Number one. I think people are groaning because I go to the first item on the Agenda.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: We only have, what 20? You said you had 20 items?

MR. NICOLE: Twenty items.

LIEUTENANT GOVERNOR RUTHERFORD: So we'll just go through all 20. But number one, State Board of Elections. Do you have anyone here from those?

MR. NICOLE: Yes, I do.

LIEUTENANT GOVERNOR RUTHERFORD: Or can you explain it?

MR. NICOLE: We have Sarah Hilton.

LIEUTENANT GOVERNOR RUTHERFORD: I think they didn't want to let you out of the row there.

MS. HILTON: No, Sarah Hilton from the State Board.

LIEUTENANT GOVERNOR RUTHERFORD: Yes. I have several concerns. One is I'm not sure why we spend money to make people aware of new voting machines. I understand asking people to vote, please, everyone vote. But to tell them that there's a new voting machine, won't they find that out when they get there? And there's usually instructions, or there are helpers and monitors and --

MS. HILTON: Yeah, they'll find out when they arrive. But there are several changes. This new system will have a paper record, so there will be an extra step involved. You'll either mark a paper ballot by hand or using a

machine, and then you have to go to a second station and scan it in. So we just want to create awareness of that.

LIEUTENANT GOVERNOR RUTHERFORD: I'm not, I still just feel spending \$1.8 million to tell people about a new machine is not the greatest use of money. But let me get to, and I, I've been told that there's some concerns about security with the new machines. Has that been addressed? Or is that a concern?

MS. HILTON: We haven't begun work on this project yet. I'd have to --

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MS. HILTON: -- ask someone else.

LIEUTENANT GOVERNOR RUTHERFORD: Has there been any testing of these new machines?

MS. HILTON: Yes, there's considerable testing --

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MS. HILTON: -- even going on now.

LIEUTENANT GOVERNOR RUTHERFORD: And I was told that there were some challenges with the testing as it relates to security. Did you hear anything like that?

MS. HILTON: I can't speak to that.

LIEUTENANT GOVERNOR RUTHERFORD: Is there somebody that could?

MS. HILTON: Not here with me today.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MS. HILTON: No, I'm sorry.

LIEUTENANT GOVERNOR RUTHERFORD: All right. Then many of my other questions you can't answer either. Well, any questions?

COMPTROLLER FRANCHOT: Well aren't we moving to paper ballots?

MS. HILTON: Yes.

COMPTROLLER FRANCHOT: When are we doing that?

MS. HILTON: 2016. That's, that's why we wanted to I guess create awareness of the change in the new system. Because there will be a paper trail now. Changes also are same day registration during early voting, that will be another issue we need to communicate. We just don't want voters to be surprised when they arrive at their polling place on Election Day or at their early voting center. So we want to create awareness, educate voters on the changes, and the paper record.

LIEUTENANT GOVERNOR RUTHERFORD: So we hire a PR firm to do that and --

MS. HILTON: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

TREASURER KOPP: Let me just, voting system, so what are they going to be advertising? You just mentioned something, for instance, same day, which is not, I was thinking of the use of the voting machines.

MS. HILTON: Right. That's the main focus, will be the new machines. They are different. And we've used touch screens for a decade. This will be, you know, a fairly major change for some voters. You may just walk in and mark your ballot, you know, with a pen. Some jurisdictions have never done that before. They've gone, you know, from lever machines straight to touch screens. So that's something new.

LIEUTENANT GOVERNOR RUTHERFORD: I guess I just think people are smart. But yeah, I was going to reject it completely. Okay. I, I am not willing to vote for this but I appreciate you being here today and I appreciate your service.

TREASURER KOPP: Can I ask what happens if we don't vote for it?

LIEUTENANT GOVERNOR RUTHERFORD: What happens if this is --

TREASURER KOPP: If we defer it? What, I mean, what, yeah, what happens? You don't, this is not your --

LIEUTENANT GOVERNOR RUTHERFORD: It just doesn't go forward, I would think.

MS. HILTON: Yeah.

LIEUTENANT GOVERNOR RUTHERFORD: You don't have a contract with them, there's no outreach effort.

MS. HILTON: We didn't really have a Plan B at this point.

LIEUTENANT GOVERNOR RUTHERFORD: You do have a Plan B?

MS. HILTON: No, we don't. We really were looking forward to working with this agency. They're very talented. They are right in Baltimore. Yeah, it's --

LIEUTENANT GOVERNOR RUTHERFORD: You have a website.

MS. HILTON: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. All right. Well, thank you.

COMPTROLLER FRANCHOT: I had --

LIEUTENANT GOVERNOR RUTHERFORD: Oh, I'm sorry, did we --

COMPTROLLER FRANCHOT: No, no, you're, you let me know when I can throw in something that kind of interests me.

LIEUTENANT GOVERNOR RUTHERFORD: Do you want to go to 13?

COMPTROLLER FRANCHOT: Mm-hmm.

LIEUTENANT GOVERNOR RUTHERFORD: Item 13? Mr. Secretary?

MR. ABED: Lieutenant Governor, how are you?

LIEUTENANT GOVERNOR RUTHERFORD: Okay. You need to identify yourself.

MR. ABED: I'm sorry?

LIEUTENANT GOVERNOR RUTHERFORD: You need to identify yourself.

MR. ABED: Yes. Sam Abed, Secretary for the Department of Juvenile Services. I'm here to speak on behalf of DJS. Thank you, Mr. Lieutenant Governor, Mr. Comptroller, Madam Treasurer.

These are contracts for youth care. They were on the previous Board of Public Works Agenda and they were deferred until today's Agenda.

There were questions raised by the Comptroller about the, first the cost of those contracts, which then evolved into how much excess capacity that the department contracted for over what we utilized. And in the last Board of Public Works Agenda, these contracts, which are three-, four-, and five-year contracts, listed 860 youth, which is the annual number served by those contracts. So that's one year of service for those contracts.

LIEUTENANT GOVERNOR RUTHERFORD: I mean, I'm sorry, how many youth were served?

MR. ABED: 860 youth per year.

LIEUTENANT GOVERNOR RUTHERFORD: Oh.

MR. ABED: But since these are multiyear contracts it gave the impression that the cost of the contracts per kid in a year were over \$360,000. We have since corrected that and taken note that we need to be certainly much more careful about how we present the information. And since they are multiyear contracts they need to identify how many kids are going to be served over the life of those contracts. So we have corrected that in today's Agenda.

The reality is that we, we do contract for more capacity than we anticipate that we are going to need so that we can have flexibility to meet all of the court orders at the various levels of service. But the magnitude of that is far less than the percentage that was talked about at the last Board of Public Works

meeting. For fiscal year '15 we spent, or excuse me, we contracted for approximately 24 percent additional capacity than we actually needed. For the year before that we were much closer at 103 percent. Again, we have to anticipate what our needs are, where we want to move the system. But also because the courts have a tremendous say in where kids get committed, they do get to determine the level of service that we do provide, the security level, and we have to find programs within that level. We can't with certainty contract with the exact amount.

So the, the magnitude is far less, and I, I do have to apologize to the Board for the mistake in the, the Agenda and for the, the response that my CFO made. Mr. Comptroller, you asked him if we were contracting for two-thirds more value than we actually needed, and he responded yes. And that's not the case. He made an error. It was a mistake. I apologize on behalf of him and the department. But the actual numbers are far closer to what we spent.

LIEUTENANT GOVERNOR RUTHERFORD: Well, and maybe

--

COMPTROLLER FRANCHOT: Go ahead. No, go ahead.

LIEUTENANT GOVERNOR RUTHERFORD: What is, what is the percentage difference, I guess, that you, the margin of error that you're

actually contracting for? Is it 24 percent above what you anticipate? Or what history has been?

MR. ABED: So what we, what we do is we anticipate how many beds that we think we'll need at each level, and then we have to calculate how that comes to in dollars.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MR. ABED: So for fiscal 2015 that came to 24 percent variance. It can vary from year to year. We're anticipating next year that it will be a bit higher at 27 percent, but it's not an exact science. And again, we project what our needs are going to be. This is what fiscal 2015 has come to. And I mean, the fiscal year has not ended, but we can, we're very close to the end of the fiscal year and say that we're going to be right at that 24 percent number this year. So we try to build in 25 to 35 percent extra capacity so that if we have a surge in commitments or if perhaps one of the programs shuts down, which can happen, and we have to move kids very quickly, that we have some excess capacity to move those kids.

Now in all likelihood if we did have something like that, for instance if there was a flood in a facility and we had to shut it down and move kids, that capacity would buy us some time. And if it was a sustained issue we would have to come back to the Board of Public Works and modify a contract in

order to continue to serve those kids. But so that we don't have interruptions, and have to bring those kids back into detention and stop their services, we build that extra capacity in.

LIEUTENANT GOVERNOR RUTHERFORD: So let me make sure I understand. So in FY '15 you, you actually, you built in extra capacity, and you hit that extra capacity level, the 24 percent? Is that what you're saying?

MR. ABED: No, we did not spend that --

LIEUTENANT GOVERNOR RUTHERFORD: Okay, so then you returned the 24 percent?

MR. ABED: Either it was returned or it was used for budget cuts or for the other things that we've submitted in here.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. ABED: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: So you were 24 percent above what you actually needed?

MR. ABED: Yeah, the value of the contract capacity was higher than what we actually spent.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

COMPTROLLER FRANCHOT: Well, this is an unfortunate situation because basically we have to take the agency at its word from last Board

meeting. I respect the Secretary, I had a long conversation with him and his staff sometime in the last week or so, and rather than raising my level of confidence my level of confidence has been reduced.

And let's just review what we're doing here. We're awarding 31 contracts with a cumulative dollar amount of \$296.7 million. This is a lot of money, \$296.7 million to a collection of vendors who are entrusted with providing residential and non-residential juvenile services in the State. These contracts range in span from three to five years and last meeting they were going to serve 860 children over this period of time, and the contracts were not competitively bid. They were not subject to the normal procurement process, which actually is a blessing here because it gives us considerable flexibility in protecting not just the taxpayers but also the kids that are receiving these services by hopefully making some adjustments.

Those of you that were at the last meeting on June 3rd will recall I had several concerns. I pointed out that \$297 million for 860 children, we were going to be asked to spend \$346,000 per child, which struck me as an extraordinary amount. I pointed out that none of these services were competitively bid and none of these contract awards as presented to the Board for approval contained any information that could help us determine whether the State was truly getting its money's worth. There was no background information

about the credentials of these vendors, the actual work that they're supposed to be doing, their past performance, the metrics that we should use in evaluating their future success taking care of our kids. Nor for that matter did anyone explain why some of these contracts were for three-year terms while others extended for four or five years. All we received was the name of the company and the dollar value of the contract, in other words the amount of the check and who it should be made out to.

And then we learned in the testimony of the Chief Financial Officer that this was merely a not to exceed figure. And that when all was said and done the department would actually be spending between \$100,000 to \$110,000 per child. And in case there is any question over the recollection of the facts, I appreciate the correction of the record here, Mr. Secretary. But there are lots of other comments by your Chief Financial Officer salted through that transcript from the June 3rd meeting. I have it right here, and anyone that's home please go to page 84 and raise, and read that.

So I raise these issues because after having deferred this item for two weeks none of my concerns have been assuaged in the slightest. I'm still being asked to award a contract for three times the dollar amount that's actually needed to deliver the services in question and I'm still being handed an item that contains 31 bundled, non-competitive contracts.

So I'd like to stay on the issue regarding the value of this contract because on June 3rd when I asked the department why we were approving a dollar value that was so far in excess of what was actually needed to deliver these services. Think of that, we're being asked to award a multiyear, non-competitive contract with one vote, \$297.6 million of taxpayers' money, and here's what the Legislature appropriated starting next week for these services. I believe it was \$52 million, that's what they appropriated for these two departments, to all these contracts that we're looking at. Not \$297.6 million, but \$52 million. They added a cushion, because we heard a lot about the cushion last meeting. They added a cushion, I think it's up to \$60 million. But the estimate that they appropriated the money for for the actual services was I believe \$52 million.

So what did the agency testify last session about? They said, well, we need to have this extra capacity or we would be back every month to add additional funds to the contracts. A few moments later, that's a quote, a few moments later that point was reiterated. Quote, again, it's just a question, if we don't build that capacity in up front then we're going to be back at the Board of Public Works on a monthly basis trying to, you know, as utilization, as the courts order more types or order more kids in that level of care, that's the program that provides that level of care, then we're going to be back asking for the Board to add dollars to the value of that contract in order not for us to exceed that value.

These comments would seem to suggest that the department's primary motivation for requesting a cushion of considerable magnitude is to avoid having to come back to the Board of Public Works for contract modifications. To me that's an inappropriate reason to request a contract award with the kind of over-estimation of the cost that's included in this.

Not to sound like my beloved fourth grade teacher, but what if everybody did what you're doing, Mr. Secretary? And came in and asked essentially for \$52 million of estimated contractual work that you're actually going to do in the next year starting July 1st, asking for a big cushion? And obviously we'd be into issues, you know, there's an item here in the Highway Department asking for \$761,000 for highway maintenance. What if they instead came to us and the Board and said we'd really like to ask for \$2.5 million just so we have a little cushion in case the \$761,000 is not okay, not enough? That kind of approach would obviously be unsustainable and the State's finances would quickly be in a shambles.

So I personally believe that only good things happen when departments are required to appear before the Board of Public Works. We're given the opportunity to ask questions in an open and transparent forum. In so doing we have the chance to hold agencies accountable for how the money is spent. And in this instance I understand that rates themselves are established by

an interagency State committee. But we would still have the opportunity to ask questions and better understand the reasons.

So I know it may be inconvenient to come back before the Board, but I certainly believe you can if we reduce the amount to what the Legislature indicated were the fiscal needs of these services. We, you know, I say it's an unfortunate situation. It is. Because you know, we're basically dealing with a situation where the contracts are inflated by literally hundreds of millions of dollars and these dollars are described as a cushion so the agency doesn't, I don't know what, do you eventually return some of this money? But I view it as an illegitimate contract that doesn't reflect the dollar amount needed to deliver the services. That's the bottom line.

And I would respectfully move to change this contract or ask you to come back in a week with a new contract for \$52 million, which is the estimated cost that the Legislature said you would need in Fiscal Year '16 to deliver these services. And if you need some help at the end of the year with an extra amount for some unanticipated situation, there's plenty of time for this Board to, to act. And the key thing is we want the services delivered. But we don't want, I don't want, to see this kind of, well, I called it an inflated contract, I think it is.

MR. ABED: Well, if I may respond, the contract awards are not inflated by hundreds of millions of dollars. These are multiyear contracts. And so you have to look at the, the 860 kids that you're using to come to that figure is for one year of service. These contract awards are multiyear awards. And the reason that they're multiyear awards is so that we can stagger them so that we don't have the problem of having so many contracts coming before the Board of Public Works all at once.

In the past when we've had contracts come up that were short term that were one-year contracts, if we had a few extra kids, because the cost per kid is quite high, a few extra kids going into a program, we could quickly exceed the amount of money that was approved by the Board and so we would get into situations where we were exceeding that money faster than we could get to the Board and get a contract extension or a new contract put into place. And we had a number of retroactive approvals that were requested prior to me taking office, and just after I took office. And it was expressed that we needed to find a better way at that point to avoid these situations where we've either exceeded the contract amounts or come back for retroactive approval for spending that we've already had.

Regarding the non-competitive nature of the contracts, they are non-competitive contracts. And COMAR specifically has sections for human

services contracts. We're not contracting for items or things that are fungible. These are human services contracts and they do get different attention in COMAR. And these are in compliance with the regulations. And the, it's a highly regulated industry. You have to be a licensed provider in order to serve kids in Maryland so that we can assure that the quality of those services meets our standards.

You also mentioned that they were all incumbent providers, and that is also correct. And the reason they're incumbent providers is that we have what's called the statement of need law. And it's a law that requires that a, an agency like DJS or DHR, if we want to license any additional providers we have to show that there is a need and we have to follow those tenets in the statement of need law. And right now we are contracting. We are actually getting smaller and incarcerating fewer kids, which is a very good thing. But that means that the statement of need law prevents us from licensing any new, any new providers. So our universe of providers that we can choose from are only the ones that are in existence. We cannot license any new providers. So in order to comply with that law we must only deal with the ones that are existence now. And since we are contracting and DHR is contracting, I don't anticipate that there are going to be new providers coming on line. Otherwise we would be in violation of that law.

You mentioned that there's a rate setting committee. When we do competitive contracts, the primary reason is to find the best price. But there again we have a law that requires us to use the rate setting committee's rates. So there is no competition on the price. So all we have is the evaluations, and we do very comprehensive evaluations of these programs to meet the needs of our kids.

COMPTROLLER FRANCHOT: Okay. So you're basically saying that the COMAR and the rate setting, or licensing process, are you saying it prohibits competitive bidding? Or it --

MR. ABED: The traditional style of competitive bidding is not permitted. We can only use providers that are licensed and we can't license new providers unless we can show that there is a need. In other words, that we have a need for more bed space. The purpose of the statement of need law is specifically to bring down the number of providers in, in the State so that we don't use more private providers or we don't proliferate and license more of these providers.

COMPTROLLER FRANCHOT: Well, I, I appreciate your situation. But my problem is that the Legislature, your committee looked at this and came up with a \$52 million figure for Fiscal Year '16.

TREASURER KOPP: Can you reconcile that number with what you just said?

MR. ABED: The \$52 million appropriation is for residential per diems. And that is what our annual number is. And that's how much we anticipated 18 months ago when we presented that to the Legislature, what we would need. These contracts are for multiyear. So if you carry that over for three, four, and five years, then we are actually going to be within that range with some excess capacity for a surge or if the populations change or the courts order us to use different programs within the providers that we have.

TREASURER KOPP: So can I take from what you say that the, that that disparity between what the Comptroller pointed out correctly the Legislature approved for Fiscal 2016, and what you are requesting in terms of the capacity, that is the authorization of using these funds for multiyear contracts, not giving money to the people but having this authority --

MR. ABED: Exactly.

TREASURER KOPP: -- conform?

MR. ABED: Exactly. And, and we're limited by that appropriation, for how much we can spend per year. Of course when you calculate it out you will get to a much larger number than \$52 million and it will come close to what we're proposing here in terms of what we'll actually spend. But that's our limit. We can't go over what we're appropriated. So no matter

how much excess capacity is built into these contracts we still can't spend additional money.

COMPTROLLER FRANCHOT: Exactly.

MR. ABED: So in other words, the Board of Public Works cannot authorize us to spend more than we're appropriated.

COMPTROLLER FRANCHOT: Exactly. So that's why I come back to my original point. I have a diminished confidence in your agency because of the changes in figures, and the, you know, the dust that was thrown up during the briefing. It's hard to sift through exactly what you're saying from a fiscal standpoint. I'm going to come back to the \$52 million that the Legislature said you have starting July 1st for one year, and I'm going to make that motion, and move that. If these are not competitive contracts that are subject to RFPs, all sorts of delays of service, and delays of getting straightened out. These are agreements that you have with these companies. And over the next year I'd like to take a look at the information about the companies that you're dealing with.

The information you sent me I didn't really have time to go through it and I'm not an expert, but a lot of them had some very unfortunate audits. And fundamentally I'd like to, rather than vote for \$296 million, vote for \$52 million, take a year to see what exactly what the quality of service is that's being delivered to these adjudicated youth. And then we'll come back a year

from now and you can tell us how much you have left over or how much you don't have left over, how much more you need. You can tell the Legislature what they do. But we don't have to launch off into a large dollar figure for three- to five-year periods. And I wish it was different but you're the folks that testified. You're the ones that created this confusion. And frankly, I haven't had it clarified since then. And it's a lot of money. And if we don't start putting our foot down here we're never going to reign in spending. So this is a chance to save the taxpayers some money and also get a handle on the quality of the program.

LIEUTENANT GOVERNOR RUTHERFORD: You know, I have a, I have a question. I mean, I was just doing some back of the envelope calculating, so please excuse my math. But as I look at the, the item, the \$35.2 million for three years, 37.84, 223.6 for five years, it's just round numbers. It looks like it's, if you divided that by the amount of years, the first by the three years would be approximately \$11 million and some change. The next approximately \$9 million and some change, and then \$40 million. So we're looking at around \$60 million, I think is what you're asking for in the first year. A little more than \$60 million. But then we have the Legislature saying 52. So we have a reconciliation --

COMPTROLLER FRANCHOT: Yeah.

MR. ABED: Right.

LIEUTENANT GOVERNOR RUTHERFORD: -- that, that's the margin? The 52 versus the 60-plus?

MR. ABED: That's the excess capacity that we built into the contracts. Because we have to have capacity. When a kid gets committed to us from the courts, we need to be able to place that youth.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MR. ABED: As quickly as possible. And that's been a persistent problem in the past that we have largely solved, is the youth awaiting placement issue. If they don't, if we don't have a placement available for them then they sit in detention and they wait, and none of that time counts, which is an injustice that we have in the past perpetrated on our kids. So we have capacity at every level because we can't anticipate in every case accurately what level that court is going to commit that kid to. We need to have a bed available for them immediately when they come into the system so that they can be served.

LIEUTENANT GOVERNOR RUTHERFORD: And that differential is, what, 27 percent now? Is that what you're projecting, versus 24?

MR. ABED: We're projecting it to be 27 percent, yes.

COMPTROLLER FRANCHOT: I just go back to my original point. I think we should stick at \$52 million and have you come back and brief us. If you need to have an extra allocation for one of these groups that you're

dealing with, and you're unable to manage what historically your case load is, I have no problem with the Board, as we're going to do I think in Item 10 --

MR. ABED: Yes.

COMPTROLLER FRANCHOT: -- exactly what I'm just talking about. So what's the big problem?

MR. ABED: Well, and I'll just point out in Item 10, that is a multiyear contract that even with the excess capacity that we tried to anticipate we still undershot it, and that's why we need to come back to the Board. So and the issue with \$52 million, these are, these are contracts that are already in existence that need approval. These contracts that we have kids currently in will expire at the end of the month. And \$52 million, we would need to rework every one of those contracts because those contracts have been signed for the values that we presented to you for. So I don't believe that we can simply reduce the amount and I don't know, I'm not an expert in, in this area of procurement law, but I don't know that that's going to allow us to have uninterrupted service to those kids that are currently being served in that. So I would be concerned about that.

COMPTROLLER FRANCHOT: Well that frankly is, you know, that's the old shibboleth of, boy, you've got to go ahead and do it, otherwise the services are not going to be there. We expect you to provide the services. I understand the Secretary has an AG opinion that says on competitively bid

contracts we have a problem with the Board making changes. But this is not a competitively bid contract. These are just relationships we have with these licensed vendors. And I think we should move forward and limit the amount and, and move ahead. If the Secretary disagrees with me I'd be happy to have you come next week, I think we have a Board meeting, with a rewritten contract. But \$52 million is the level that it ought to be at for a year so that we can get an idea of exactly what the usage is and what your care is, the quality as far as the kids, and also the management of the program. And as you, the Lieutenant Governor said, there's an extra \$8 million built into the legislative authorization. So if some adjustments need to be made, feel free. And come and see us, just like you're doing in Item 10.

MR. ABED: If I may suggest that rather than risking the, the kids that are in these programs currently with such little time to the expiration of these contracts, perhaps you can give approval conditioned on us looking into some other ways to rework these contracts to see if we can meet the, the, the issues that you are articulating, Mr. Comptroller. What I don't think we should do is risk the services that these kids are getting and, and put the whole system at risk while --

COMPTROLLER FRANCHOT: Neither do I. I think we should -

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MR. ABED: -- we are contemplating reforms --

COMPTROLLER FRANCHOT: Don't give me that, please. I've been here for nine years and that argument comes up over and over again. It's the last desperate plea before an agency has any kind of real reform or adjustment. And I just, I actually am kind of insulted that you would imply that I'm not interested in the delivery of services for these adjudicated youth. I am. That's your job. But to stand up and say we have to approve a \$300 million contract with the kind of lack of information and lack of understanding of what these folks are that we're paying money to over, you know, it's not just a five-year period, a lot of them are three-year periods. It's just wrong. And I feel very strongly about it. And, you know, to have you stand up and say this jeopardizes the care of the kids, I mean, really? That's like me saying, oh, the taxpayers can go jump in the lake. I'm not going to provide service. I don't say that. I get out and make do. And boy, this is, I anticipate at the end of three years we'll provide all sorts of adjudicated youth with the right services, and I think we'll do it for about \$200 million rather than \$297 million. And but that's just my sense. I don't, I really need more time, a year or so, to take a look at what you're doing. And --

MR. ABED: And I'd be happy to provide all the information that you, and meet with you --

COMPTROLLER FRANCHOT: Yeah but the problem is it's so confusing. And we have to take on faith your statements that if we don't do this

something bad is going to happen to the kids. And you know, so I'm, I'm a little frosted on this, Lieutenant Governor. I know that, you know, I don't, I don't want to, I have the best interests of the kids at heart. But I would press my motion that we approve a one-year \$52 million allocation and ask the Secretary to do his best managing this program in a way that benefits the kids and the taxpayers.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah. I'm a little concerned about the impact, what this does, and the position it puts you in. Our next meeting is actually on the day that this contract would have expired. So deferring does not help the situation that much. And if you were to come back you'd have to come back with 31 revised contracts, I think, to do that. And, and then in one day and start back up the next if approved the following day. So I'm perplexed.

TREASURER KOPP: Governor, could, could I just say that I, I respect the Comptroller's concerns but see it quite differently. Maybe because I spent years looking at this department and the budget and recognize improvements over the years, to wit the fact that the population is going down. That's just one example. We have tried different ways over the years of competing these contracts and it has not worked and we have ended up without sufficient or appropriate capacity. And some years ago the present method of the interagency committee, the rate setting committee, was established. I'm not

saying it's perfect by any means, I don't think it is. But working within a system in which you do not control the case load, you do not control in fact the placement of the case load except to types of, of capacity, not to specific kids, I do not see what you're seeing as a threat. I see it as things that we in fact have seen in the past and, and in fact have been called down by the Department of Justice and others for doing in the past.

We have established a system of licensing. We have established the system of, of rate setting. We have established the system of the juvenile justice monitoring to go into these places. We have closed down institutions when needed. And I would just say on, for the record I, I see it quite differently. I recognize there is a cushion. This is not the amount of money that should be spent. We hope it will be even less than you've said because we hope that the, that all of the diversion and, and, and reduction will, will continue to take place. But to, to put the system in jeopardy as I believe it would be I could not support.

MR. ABED: Thank you.

TREASURER KOPP: And I have no problem with you coming back to the Board of Public Works. But to redo all of these contracts on the assumption that somehow within the constraints of the present law and present system we are going to get new different providers, it was quite a while of trouble getting any providers. And then getting the providers monitored. And to

dismantle the system without significant study ahead of time I think is the wrong, the wrong path.

LIEUTENANT GOVERNOR RUTHERFORD: Well I think we have a motion on the table?

COMPTROLLER FRANCHOT: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: Correct? And that was, can you give me what the motion --

COMPTROLLER FRANCHOT: Well I wanted to take the legislative appropriation for the services that they thought would be required, which is \$52 million, and give it, instead of the multiyear \$296 million, the key here is that these are not procurements with other bidders who are going to complain. But we give them --

LIEUTENANT GOVERNOR RUTHERFORD: Is it \$60 million or 52?

COMPTROLLER FRANCHOT: Well I'm happy to amend it.

TREASURER KOPP: It's 52 in general funds.

COMPTROLLER FRANCHOT: I'm happy to amend it to \$60 million if, because I believe that would provide a cushion. But that would be fine also. Then we instead of 52 give \$60 million which is authorized by the

Legislature. That's the ceiling. If we told them they could spend \$150 million in Fiscal Year '16 they couldn't.

TREASURER KOPP: That's not --

COMPTROLLER FRANCHOT: What I'd like to do is keep them at that for one year while we closely examine both the quality of the program as far as the kids and the amount of money that the taxpayers are spending. I can't see any harm there whatsoever because that's, that's all they can spend anyway.

TREASURER KOPP: Let me just say I'm not going to support that. But the correct number of what actually in the end is in your budget I read here, although you didn't add it up as approximately --

MR. DIBATTISTA: The actual appropriation is the \$52 million allowance less the cuts that were taken as the two percent across the board cuts.

TREASURER KOPP: Right --

MR. DIBATTISTA: For residential --

TREASURER KOPP: General fund.

MR. DIBATTISTA: The general funds, yes.

LIEUTENANT GOVERNOR RUTHERFORD: Of general funds only. But there were, there are special funds in here as well? I believe it's eight percent.

TREASURER KOPP: And federal funds.

LIEUTENANT GOVERNOR RUTHERFORD: Federal funds of eight percent, and four percent special, so that brings you to -- well, I think if we're --

TREASURER KOPP: I'm only reading your numbers.

MR. DIBATTISTA: I'm sorry?

LIEUTENANT GOVERNOR RUTHERFORD: I think we're talking about approximately \$60 million, is that what you're seeing?

TREASURER KOPP: I'm seeing what actually looks closer to 50 but it's hard to tell.

LIEUTENANT GOVERNOR RUTHERFORD: Well Mr. Secretary, given the concerns with this I'm going to, I'm going to second the Comptroller's motion and ask you guys to go back and negotiate the 31 contracts. You're going to be working as hard as I am in the next week. And come back with those contracts next week and we'll do it for one year and then we'll see how we can go from there.

MR. ABED: Yes, sir.

LIEUTENANT GOVERNOR RUTHERFORD: Okay?

TREASURER KOPP: And obviously I'm not going to support that. But just let me say that I think contrary to this that this is a significant policy decision to be made by the Governor and the Legislature if the, if the whole

system of, of procuring these services is, is to be changed, not done in a half-cocked way.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah. Yeah, I'm not particularly concerned with the procurement. I'm just more concerned in terms of the margins and that cushion more so than the procurement. Because I do understand that there is a distinction in procuring social services versus goods and services and construction. Thank you. That's what we --

COMPTROLLER FRANCHOT: Can we take a vote?

LIEUTENANT GOVERNOR RUTHERFORD: On this one item.

SECRETARY MCDONALD: All right. Motion made and seconded.

LIEUTENANT GOVERNOR RUTHERFORD: Seconded, yes.

SECRETARY MCDONALD: Is there a vote on the motion?

LIEUTENANT GOVERNOR RUTHERFORD: Two ayes, and I think one nay.

SECRETARY MCDONALD: Okay. Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. I want to go to Item 4-S, which is similar. And I don't want to start this discussion all over again. But Item 4-S which is Department of Human Services, Child Placement Agency.

MR. JAMES: Good afternoon, Governor, Madam Treasurer, and Mr. Comptroller. I'm Greg James. I'm the Deputy Secretary for Operations at the Department of Human Resources.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. How does your process if at all differ from what you just heard with Juvenile Services?

MR. JAMES: So I would say our process is similar in terms of how the procurement occurs. For these particular contracts -- what we're talking about is what we call child placement agencies. And there's two distinct types of programs that are covered by these contracts. There are treatment foster care programs, which are basically traditional homes but they offer a higher level of service than what you might think of as classic foster care. These are kids who have significant medical needs, medically fragile kids, or kids that have emotional, behavioral, or psychological health issues.

The other type of program that we deal with here are independent living programs, which are programs designed to serve youth between 16 and 21 who are most likely going to be aging out of our foster care program. And this is programs aimed at helping them become successful adults.

So the package of, of contracts we have before you today is 38 individual programs, or sorry, 38 contracts covering a total 58 individual

programs, because some of our providers operate both an independent living program as well as a treatment foster care program.

I think it's important to know that these programs are very, very diverse. They are spread out both geographically, because we have to have programs to serve kids throughout the State. They are also, different programs offer different specialties. So some may be focused as I said on medically fragile populations, some are serving children who were victims of sexual abuse, and some are serving kids who have behavioral and health, emotional health needs. Where we could not place them in a traditional foster care placement where they would not be successful, and but for the option of a treatment foster care or an independent living program these kids most likely would end up in a group home. And all of our research has shown us that the closer we can have kids to their home community, and the more we can have them in a family environment, the better their outcomes will be for them long term.

So over the past several years we've had a significant reduction in the number of kids placed in congregate care, in group homes, and other treatment facilities as we step them down into more and more residential placements. Preferably in, keeping them in their own home but if that doesn't work we move them into kinship, kinship foster care, and then treatment foster care is the next

step in that spectrum. So it's important to us to have a complete spectrum of care and this is an important component of that.

We, like Juvenile Services, do have contracts. The total value is approximately \$130 million annually for our contracts. Our appropriation for FY '16 is roughly \$88.3 million, I believe. So that difference there reflects the fact that I cannot standing here today tell you reliably who is going to walk through the door at DHR tomorrow. I cannot tell you whether I'm going to have five kids in Washington County or five kids in Wicomico County who are showing up who need care. So we contract with every possible provider in this space, in the treatment foster care child placement agency space. They have to be appropriately licensed. They have to have a rate that's set by the interagency rate committee. And even if they get a contract with us, they are still subject to quarterly licensing reviews. They are regularly monitored by our contract enforcement division within the Social Services Administration, which is completely separate from our licensing and monitoring unit. And those kids are visited on a regular basis by their case worker to help ensure that they are receiving the appropriate services.

So the average daily rate for these programs is \$144 per day. Our average annual spending for FY '14 for these kids is \$42,000.

LIEUTENANT GOVERNOR RUTHERFORD: Per child?

MR. JAMES: Per child. Per, that's what we typically spend in the course of a year per child.

COMPTROLLER FRANCHOT: Can I ask a question?

LIEUTENANT GOVERNOR RUTHERFORD: Yes.

COMPTROLLER FRANCHOT: Yeah, no, this is very analogous to what we just talked about, except it's twice as big, or more than twice as big. This is \$650 million of taxpayers' money that you're asking us to put into a contractual basis and you just indicated the \$130 million in contracts and the Legislature only gave you \$86 million for, I'm just picking these numbers roughly. And what is the, I understand, obviously, the need for excess capacity. The previous agency made that remark. But what is the problem with just giving you \$86 million for a one-year contract starting next week and you report back to us if you need something in the fall or the spring? If you need some extra money or if you are unable to manage the kind of flexibility that you are saying you need? I mean, this is a management issue. This is not a money issue. This is figuring out based on historic usage what you are going to need. And I'm sorry, the idea that you're subject to the flims and flams of whatever it is that happens is just, you know, it doesn't make sense. You have, otherwise the Legislature would have given you \$130 million. But they didn't, did they?

MR. JAMES: No, Mr. Comptroller, they did not. They gave us --

COMPTROLLER FRANCHOT: That's important.

MR. JAMES: -- \$88.3 million --

COMPTROLLER FRANCHOT: That's important. If you tell the average taxpayer that we're giving \$130 million in contracts for \$86 million worth of need and service, they don't like that. And I frankly don't know what you do with the cushion. What do you do with the cushion?

LIEUTENANT GOVERNOR RUTHERFORD: Now did you say it's 42 on average that you spend?

MR. JAMES: \$42,000 is our average annual spending.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. JAMES: Mr. Comptroller, so first I think it's really important to stress we only pay for the beds we use. So it does not matter whether we're appropriated \$88 million or even \$130 million, if we don't use a bed, if we don't have a child placed in a program, we don't pay for that day of service. So this is a cushion that doesn't cost us anything. It is a benefit to the taxpayer, because it allows us to keep kids in lower intensity programs by having the options throughout the State so that we don't have to go to high end treatments like group homes. It gives us that spectrum of care that we so desperately need. And respectfully sir, we can't control who comes through our front door. We just can't. If we get a call from --

COMPTROLLER FRANCHOT: What did you spend, what did you spend this fiscal year that's just ending?

MR. JAMES: Our estimate this year, so let me, let me give you this. For FY '14 our appropriation was \$99.4 million. Our actual spending for FY '14 was \$85 million.

COMPTROLLER FRANCHOT: Okay, good.

MR. JAMES: Our appropriation for FY '15 --

COMPTROLLER FRANCHOT: Let me stop right there.

MR. JAMES: Yes, sir?

COMPTROLLER FRANCHOT: So what happened to the \$14 million? Yeah.

MR. JAMES: The difference there?

COMPTROLLER FRANCHOT: Yeah.

MR. JAMES: So the difference will either be transferred to pay for other services for these kids so that we can keep them in lower intensity placements and try and keep them out of care by giving supports to the family, which ultimately would cost the State less and will result in better outcomes for these kids. Anything that we don't spend on this program, A, if I recall correctly, our budget is limited. So we can't transfer these funds to other programs. Anything that we don't spend would revert back to the general fund in terms of

the general funds that we have at the end of the year. Anything less than that, our federal funds, would be likewise.

LIEUTENANT GOVERNOR RUTHERFORD: Greg, you know everyone is not as cheap as I am, or as my mother would say, frugal. And so it's always been a concern for me in government is that when you appropriate an amount of money that government folks feel that they've got to spend it all and so if you have that difference of approximately \$14 million that you didn't spend but you'll use it in your programs versus reverting it back. Now the programs because it's specific for this it's like what else can we do in this existing program versus I was one of those few government people who always felt I should spend less than my budget because I, going from what your predecessor, Governor Schaefer, I sat over in this chair when he said, you know, it doesn't matter if I take it out of this pocket or this pocket, it's still my money. Sheila remembers that. So I do get, I understand the Comptroller's position. And so I get a little concerned that, you know, you had an appropriation of one number and you spent \$14 million less. The big question would be where did that \$14 million go? If it was used in, you know, let's, let's buy additional televisions or something for these programs, or was it reverted back to the general fund? Which would have been a nice thing.

MR. JAMES: Governor I --

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LIEUTENANT GOVERNOR RUTHERFORD: You don't have that information?

MR. JAMES: It predates my tenure with the department so I would be happy to get you that information and let you know exactly what happened to those funds for FY '14.

LIEUTENANT GOVERNOR RUTHERFORD: Well I mean, based on my little calculations you're projecting about a 30 percent margin, or cushion. But your history is you didn't need that cushion.

MR. JAMES: So in the aggregate, yes, this appropriation is more than we need in the aggregate. But the problem is we don't deal in the aggregate, we deal in the concrete here and now. So as I said, I may have excess capacity over in Wicomico County. But I don't know that today, because I don't know who's going to come in tomorrow.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. JAMES: I don't know --

LIEUTENANT GOVERNOR RUTHERFORD: Well but how does that 30 percent, I mean, you know, if your history is that you've spent less than what you've been appropriated, how do you come up with a 30 percent margin when you've actually spent ten percent less than what you were appropriated?

MR. JAMES: I would say, Governor --

LIEUTENANT GOVERNOR RUTHERFORD: I mean, I could see a margin, maybe, and I don't know what that number should be. I'm not the expert.

MR. JAMES: Mm-hmm.

LIEUTENANT GOVERNOR RUTHERFORD: Ten percent, 15 percent, but you have a 30 percent when you have history that says you didn't, you didn't hit those numbers. You didn't even hit the number that would have put you at zero.

MR. JAMES: True. True. So Governor, what I would say is if you look at the longer history of this department the greater challenge that we have faced is not having sufficient appropriate placements for our kids in care.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MR. JAMES: If you go back ten, 20 years with this department, what you will find is we had kids in the wrong placements because we didn't have the appropriate capacity in the appropriate ranges. And the only way to make sure we have that is to have some excess in there.

Now what we have seen is as we have moved kids out of group homes, as a percentage of our total number of placements the number of

placements in treatment foster care have increased as a percentage. Our total placements have gone down.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MR. JAMES: But we will continue to work on our placements in congregate care and try and move them into family environments. So would I like to be able to stand here today and tell you, I can tell you that we will only need \$88 million of placements, and I can tell you which of these 38 programs, how many beds I'm going to need every given night of the year and therefore I can give you an accurate prediction of exactly how much we should be contracting with with all 88 programs? I wish that we had analytics that good.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah, and I'm, I'm not even asking for that.

MR. JAMES: But --

LIEUTENANT GOVERNOR RUTHERFORD: I'm not asking for that, Greg.

MR. JAMES: So --

LIEUTENANT GOVERNOR RUTHERFORD: I mean, it's, it's great that, you know, you're a great orator. But my, I go back to 30 percent cushion, and negative ten percent cushion in the history. History is you haven't had to use that money and now you're asking for 30 percent more than what you

had asked for. Maybe the cushion should be five, maybe it should be ten. But 30 seems high to me. And maybe it's just because I'm, like I said, I'm pretty cheap when it comes to money.

MR. JAMES: So again, first it's cushion that we don't pay for.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah, but it's, it's, it's held. And, and I just, not everybody thinks the way I do in terms of budget but at the end of the year people start saying what can we spend this money on, we have this money, and can we spend this? Versus, hey, let's give it back. And --

MR. JAMES: Right. Well what I would say, Governor, is our appropriation in this area has gone down --

LIEUTENANT GOVERNOR RUTHERFORD: The way it should --

MR. JAMES: The way it should.

LIEUTENANT GOVERNOR RUTHERFORD: -- because you have less kids.

MR. JAMES: Because our services reflect that.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. JAMES: And our spending in this area, as I said, I can get you the precise figures on what we did with any excess funds. But I would say

traditionally if we've had that excess what it's being spent on instead are services that, again, help us bring this number down overall. They are front end services that help us keep kids out of care, or help us keep them in a kinship placement as opposed to moving them into a treatment foster care placement, which is ultimately less expensive and saves the State money.

LIEUTENANT GOVERNOR RUTHERFORD: Can I ask a question? Do you know where they are in this current fiscal year? I mean, we're a week away from the fiscal year ending. And you gave me for '14. Do you know where they are in terms of what the spend in this program was?

MR. NICOLE: I do not know that right now, Governor. We will look it up for you.

LIEUTENANT GOVERNOR RUTHERFORD: Is your financial guy around?

MR. JAMES: I can give you through the end of April.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MR. JAMES: Our FY '15 appropriation was I believe \$85 million. I'm sorry.

LIEUTENANT GOVERNOR RUTHERFORD: That was '14, I think.

MR. JAMES: I'm sorry, yes. Was \$93.3 million.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MR. JAMES: And our spending through the end of April was approximately \$63.6 million.

LIEUTENANT GOVERNOR RUTHERFORD: I'm sorry, was approximately what?

MR. JAMES: \$63.6 million.

COMPTROLLER FRANCHOT: And what was the '14 numbers again?

MR. JAMES: The '14 numbers were \$99.4 million was our budgeted appropriation.

COMPTROLLER FRANCHOT: Mm-hmm.

MR. JAMES: And our actuals were \$85 million.

COMPTROLLER FRANCHOT: And what was your Fiscal Year '16 appropriation?

MR. JAMES: Our Fiscal Year '16 appropriation was \$88.3 million.

COMPTROLLER FRANCHOT: Eighty-eight-point-three, okay. Well, I'd be happy to, once again we took the \$300 million and bumped it down to \$60 million. I'd be willing to take the \$650 million we're being asked to approve today. Because once we approve it for three years and then two option

years, we never hear from you guys again. You're gone. That's it. Good-bye, we never see you. And, not you, it's your predecessors I'm referring to. So I'd be happy to give a one-year contract for 86, what was it?

LIEUTENANT GOVERNOR RUTHERFORD: Eight-eight-point

--

COMPTROLLER FRANCHOT: \$88.3 million. And feel free, we meet every two weeks, to come back if you need some help or you need a cushion. You, obviously we need to take care of these kids. We have a very strong responsibility. And maybe with good management you could come in underneath as you have in the past and we're able to say to the taxpayers instead of these multiyear non-competitive contracts totaling \$650 million, we gave a one-year contract of 88.3. And they like that. Why? Because it symbolizes that we're running a tight ship rather than allowing, as the Lieutenant Governor was saying, cushions to be built in that frankly most ordinary Marylanders don't have. And the kids get better service, I think, because we're, we pay more attention to what exactly we're buying with the money. And you are much more in communication with us about, geez, all of a sudden we have an upward blip, we need to get some more money. I'm happy to vote for that. I think what you do is very important. I just want to tighten it up fiscally.

TREASURER KOPP: Once again let me just say that I think this is dismembering a system that took a long time to get together. It's, it's not going to save money. How it protects children in need of treatment, or treatment and foster care, I don't see at all. And, and I think taking this risk with the children in the crosshairs is just not the right way to go. If we want to create a different system of getting service for youth, the Governor and the Legislature are the appropriate policy setters, I believe. This is a difference of opinion on the function of the bodies. But I will, will say that I, I think that what we have put in place for licensing, for procuring the care, for overseeing the care and monitoring, has been working and the emphasis on taking kids out of institutions and out of even congregate care and putting them in individual care is exactly the right way to go. And I hate to see that change. It was hard fought, hard won, to get that change of orientation. And to force it through apparently fiscal means, although it won't save money, I believe is just the wrong way to go. One can see handwriting --

COMPTROLLER FRANCHOT: Well you're not allowed to spend more than \$88.3 million anyway, right? In Fiscal Year '16? That's it?

MR. JAMES: No, Comptroller.

COMPTROLLER FRANCHOT: Yeah, that's it.

TREASURER KOPP: It's a question of the contracts and the people there to provide service.

COMPTROLLER FRANCHOT: Go and try to deliver the services, excuse me, you know, go and do what you did last year, which is come in under that. Hopefully come and tell us that you're returning it to the general fund and that the kids are getting the kind of service that the Treasurer is referring to. I have no problem with that. I just, I'd like to see you come back. I like you. You need to come back.

MR. JAMES: Thank you, Mr. Comptroller.

(Laughter.)

COMPTROLLER FRANCHOT: Yeah, seriously.

TREASURER KOPP: Always a pleasure to see you.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah. Yeah, I, and maybe it's just, you know, I'm a new kid. But I don't see where breaking these up to one-year contracts in a sense diminishes the care for kids. And it seems as though we'd still be able to provide the level of care. We just, there's just a concern, my concern is the calculation, is that I think that the margins seem to be a bit high, that we're setting aside money, far more money than what we probably would need. Based on the history of the last few years, and things could be different, but a 30 percent surge when the history over the last several years

has been not to have that surge, I don't see where the one-year contract with, with a margin doesn't, is going to hurt the care that the kids are going to get. And again, like I said before, I'm not overly concerned about the procurement. I think we'll be looking at, I know we will be looking at the procurement process and we'll have to look at how social services are procured. But I don't see that being the big issue for us. But if the Comptroller has a motion?

COMPTROLLER FRANCHOT: Yes. I would move that we authorize \$88.3 million for Fiscal Year '16 and ask the department to come back next week as we did with DJS with whatever the proper paperwork is to approve that. And, and not substitute that for the \$650 million that is being requested. Instead insert 88.3 for Fiscal Year '16. And management and leadership is what we need in government. And I think that's why you're here, Mr. Secretary. I think that's why the Lieutenant Governor is sitting here, and the new Governor Hogan. That's what the voters want. They want management. They don't want cushions.

LIEUTENANT GOVERNOR RUTHERFORD: And --

COMPTROLLER FRANCHOT: And so that's my view --

LIEUTENANT GOVERNOR RUTHERFORD: And I'm willing to second that.

COMPTROLLER FRANCHOT: Thank you.

TREASURER KOPP: Can I just understand that you said put in 65, 85?

LIEUTENANT GOVERNOR RUTHERFORD: 88.3.

TREASURER KOPP: But not instead of the 650?

COMPTROLLER FRANCHOT: In other words, it's a one-year.

LIEUTENANT GOVERNOR RUTHERFORD: One-year contract.

COMPTROLLER FRANCHOT: This is a five-year \$650 million contract is being whittled down to --

TREASURER KOPP: So you're taking it to one year and reducing it to 88?

LIEUTENANT GOVERNOR RUTHERFORD: Yes.

TREASURER KOPP: Just so I understand.

COMPTROLLER FRANCHOT: Yeah, and even if it were 88.3 for five years that would still be lower. So, but the key is not to have you go away for five years and come back. It's to get this sorted out now and see if we can't improve the care and save the taxpayers some money.

LIEUTENANT GOVERNOR RUTHERFORD: And the vote? In favor?

COMPTROLLER FRANCHOT: Favor.

TREASURER KOPP: No.

LIEUTENANT GOVERNOR RUTHERFORD: Two to one.

Okay, thank you.

MR. JAMES: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you, Mr. James. I have two more items. I heard the sighs out there.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: I'm actually skipping one minor one that I had. But because there was another item that had kind of a typo in it, but I'm not going to dwell on that. 5-S, but that's another story. 7-S, this is Southern Maryland Technology Commercialization. And I really, I point this one out not for criticism, so feel, feel good about that. But as some of you may know, last week I went to the Paris Air Show. And there were a couple of businesses that we took with us. And one in particular, not the one that had the Star Wars hover bike which got all the attention, but there was a company or is a company Ausley & Associates out of Lexington Park. And one of the issues that they, they're in the, the unmanned vehicle business. And one of the issues that they brought up, and a number of others brought up, was the concern about getting engineers and technical staff, particularly in the Pax River area because that's where they do their business. But an example of

commercialization and what Ausley has done is that they are working on a project that would use the unmanned vehicles to deliver medical, medicine and medical equipment to areas of Ghana that are difficult to get to in vehicles because of the road conditions. And they are utilizing these, the vehicles to get there, the unmanned vehicles. And I thought that that was a great way to show how the military research in these areas are transferring to commercial and essentially providing life saving services in an area that's been hard hit by Ebola and some other diseases.

But maybe you can tell me a little bit about your program and how it may assist organizations like Ausley & Associates and what they are doing, a Maryland company as I might say.

MS. SWOBODA: Lisa Swoboda, Deputy Director of DBED, Office of Military Affairs. This contract award would support a Southern Maryland Technology Commercialization pilot program that's being 100 percent federally funded by the Department of Defense Office of Economic Adjustment. It is to support economic diversification within the defense industry here in Maryland. The pilot program targets Southern Maryland, as we recognize Southern Maryland to include St. Mary's, Charles, and Calvert Counties, are Maryland's most defense dependent region. St. Mary's County alone is 80 percent economically dependent upon Pax River, the Navy base down there.

This pilot program looks at technology commercialization opportunities that exist within the Navy bases within the Southern Maryland region, to include Indian Head and also included in that scope is the Naval Research Laboratory in Dahlgren, which is right across the bridge from Charles County. We are looking to identify businesses that are apt to adopt the technologies out of these laboratories and put them to a commercial use beyond a defense application. And so by doing so we hope to expand our in State businesses' company portfolio to make them less defense dependent over time.

LIEUTENANT GOVERNOR RUTHERFORD: Any questions?

COMPTROLLER FRANCHOT: I have another item.

TREASURER KOPP: Can I, does this, is this, does TEDCO have a role in this at all?

MS. SWOBODA: TEDCO was a bidder, a potential bidder, and we did receive a request for proposal. This was a competitive bid. TEDCO did admit that they were very new in the area of patent portfolio evaluation. That is evaluating the patent portfolios of the technologies within the Naval lab. We do hope that they will be a partner as a resource to Axcel, which was the company that we're looking to award the contract to.

TREASURER KOPP: And Axcel was from Northern Virginia?

MS. SWOBODA: They are. And they have served as a contractor before and one currently to a DBED, I believe it's a UAS cyberspace report.

TREASURER KOPP: Mm-hmm.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Any questions for DBED?

COMPTROLLER FRANCHOT: No, I have another item to get just for a quick second.

LIEUTENANT GOVERNOR RUTHERFORD: Sure. Thank you very much.

MS. SWOBODA: Thank you.

TREASURER KOPP: Thanks. It sounds exciting.

LIEUTENANT GOVERNOR RUTHERFORD: Yes.

TREASURER KOPP: It's like DARPA turning into ARPA, I mean really --

LIEUTENANT GOVERNOR RUTHERFORD: Yes. There are some interesting things going on in that, that space. And the companies are looking to diversify as defense spending contracts. So it's, but we, we also need to look at what we're doing in terms of preparing and training our technology workers too, so that's a challenge. You had a --

COMPTROLLER FRANCHOT: Yes. I have Item 20.

I wonder --

LIEUTENANT GOVERNOR RUTHERFORD: Yes.

COMPTROLLER FRANCHOT: -- if DBM could just explain what we're doing?

MR. NICOLE: Sure, Mr. Comptroller. Item 20 is a proposal to spend \$20 million from the contingent fund to address and cover the costs of State agency expenses that were incurred during the period of unrest in Baltimore City between April 27th through May 6th. And additionally there are some funds to aid in the recovery of Baltimore City to the tune of \$5.1 million, \$4.1 million to the Department of Housing and Community Development, and \$1 million to the Department of Labor, Licensing and Regulation for the Baltimore City YouthWorks program. We have representatives from the agencies to answer any specific questions you may have.

COMPTROLLER FRANCHOT: Okay. Is the \$20 million, I take it some of it is being returned to the rainy day fund?

MR. NICOLE: Correct, Governor, Mr. Comptroller.

COMPTROLLER FRANCHOT: How much of that?

MR. NICOLE: When we originally had moved the funds out of the rainy day fund to the contingent fund we had estimated a total cost of

approximately \$20 million. Costs now are only estimated to be \$13 million and we would propose to send the \$6.9 million unneeded back to the rainy day fund.

COMPTROLLER FRANCHOT: Okay. And we owe some money to the Pennsylvania State Police, I take it?

MR. NICOLE: Yes, sir.

LIEUTENANT GOVERNOR RUTHERFORD: And New Jersey.

COMPTROLLER FRANCHOT: Have we paid that?

MR. NICOLE: If, if this is approved we will pay that.

LIEUTENANT GOVERNOR RUTHERFORD: And New Jersey -

-

MR. NICOLE: And New Jersey.

LIEUTENANT GOVERNOR RUTHERFORD: -- State Police, and the District of Columbia.

MR. NICOLE: Correct.

COMPTROLLER FRANCHOT: So your testimony --

MR. NICOLE: We have representatives here from MEMA that can --

COMPTROLLER FRANCHOT: I just would like to know whether any of the public safety bills have actually been paid and whether the

State Police in our own State have gotten their overtime payments? Are we dealing with something prospective or something that's already been paid?

MR. MCDONOUGH: So it's prospective --

SECRETARY MCDONALD: Could you introduce yourself, please?

MR. MCDONOUGH: Oh, yeah. I'm Dave McDonough. I'm the Director of Administration at Maryland Emergency Management Agency. So I can speak to the out of state resources.

COMPTROLLER FRANCHOT: Mm-hmm.

MR. MCDONOUGH: The emergency management assistance compact resources. They are, we agree ahead of time on the costs but we're awaiting invoicing from the individual agencies on the specifics, and then we will pay. So it's prospective. We have not yet paid them.

COMPTROLLER FRANCHOT: You have not yet paid. And that's, how about our State Police? Have they gotten their overtime pay? Is there someone here that can comment on that?

MR. WULBRECHT: My name is Jeff Wulbrecht. I'm a grants manager over at MEMA. The State Police, Public Safety, and Department of Natural Resources have already spent their fund, and that's just overtime,

incidentals, and damage to vehicles across those agencies. So those have already been spent.

COMPTROLLER FRANCHOT: The overtime payments?

MR. WULBRECHT: Yes.

COMPTROLLER FRANCHOT: Okay. And we're, this money will be used to make the agency whole?

MR. WULBRECHT: That's right.

COMPTROLLER FRANCHOT: Okay.

MR. WULBRECHT: That's correct.

COMPTROLLER FRANCHOT: So thank you for that.

MR. WULBRECHT: Mm-hmm.

COMPTROLLER FRANCHOT: Lieutenant Governor, I have no problem with, well I do have a problem but I'm going to vote in support of this out of respect for Governor Hogan and for yourself. The problem here is that we're dipping into a fund, the rainy day fund, which is pivotal. It is a goal post as far as maintaining our AAA bond rating that we have said we do not go below that five percent level, and here we are going below the five percent level for reasons associated with the unrest in Baltimore.

What is the problem with that? There's no problem that Governor Hogan and Lieutenant Governor Rutherford are in charge of that fund in the

future. The problem is that the past is prologue. Every dedicated fund in the State has been dipped into whenever the State or the Legislature needs some cash. You know, highway user revenues, Maryland Transportation Trust Fund, the pension contribution, my own billion dollar very important to the State's fiscal reputation local income transfer fund, Program Open Space, dipped into for cash. And the first time it's just a little bit. Then the second time it's a bigger bite. Third time it's a really big bite. I had a billion dollars in the income transfer fund. Now I have a minus \$900 million unfunded liability that I have on the books of the State that I've prepared. It's gone. With multiple promises from the Legislature each time they bit into it that they were going to repay it.

So that's the sad story of these dedicated funds. And I am voting for this only on the assumption that this is an absolutely one-time event and that the Governor and the Lieutenant Governor are going to stand guard over this sacrosanct rainy day fund. We've only dipped into it twice in the last 20 years. Each time it was, well one time we had \$700 million more than we needed in it so they dipped in there. And the other time I think they were, had a 800, or a \$100 million --

TREASURER KOPP: Never below the five percent before.

COMPTROLLER FRANCHOT: Yeah, never below the five percent. That's the difference. Because here as soon as we do it, I can just, I

spent 20 years on the appropriations committee and I raided every one of the funds that I just mentioned. When you need cash, when you need cash, everything sounds super important. So with that caveat, I'm going to support the Governor and the Lieutenant Governor in this effort. I hope it's a one-time event that will never be repeated.

TREASURER KOPP: Governor, could I just add to what the Comptroller has said? And he and I are in agreement on this, as, as he knows. I just want to say for the record I am severely troubled by the, by the use of the great state of emergency power that the Governor has. Not, not by the way he used it, which was appropriate and effective. But by the fact that the Governor, any Governor of this State has the authority apparently to simply abrogate the laws and be above them for up to 30 days and then when that 30 days is over declare another state of emergency and do it again. And that is a creation of the law. That's not the Governor. But that's the first thing that I just have to say troubled, troubles me very much.

And the second is the, the use of the rainy day fund. I have been one who has always thought that the rainy day fund is there for use in a very rainy day and that what's needed is to, a protocol for using it and then for restoring it to the level that we have all said it ought to be, which is five percent of, of revenue. I hope that that restoration part is in place and will be for 2016 and '17. I

understand it can be done only through, through the normal budgetary process. But I have trust that it will be done. And we have told in fact our investors and the rating agencies that it, that it will be done. And then I think once again it, it ought to be up to the Governor and the Legislature I believe to more thoroughly discuss the use of the rainy day fund and how you use it and how you replenish it. I don't think originally it was ever intended to be, as the Comptroller said, it has become sacrosanct, just sitting there on the books. But on the other hand, we went through the worst recession, the worst economic turmoil since the Great Depression and we didn't touch it. We've gone through all sorts of crises and not touched it. And I think there should be a clear understanding and transparent use of, of it from, from here on. But having said that, that's all past history and we can't do anything about it. And I will say this use for repaying what are truly our debts, for investing in jobs for young people which have to be done this summer and therefore for which there is an emergency, and for the investment in the City in both the, in the DHCD programs, I understand will be done under supervision of the State, that, that the programs will be held accountable. That the funds will actually go for jobs that actually employ young people and for businesses that are appropriate and that, that will use them and be accountable. And with that understanding I will join the Comptroller in supporting this. But I have to say that

the whole thing has caused me more trouble than almost any issue I can, I can think of since I've taken office. Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you. I appreciate that. And we, we promise that we will restore the funds. That is something that will be done. As far as the programs going to Baltimore City, the Governor had asked me to work with the agencies in terms of our response. And so as the secretaries who are here, I see Secretary Schulz and I saw, I thought --

TREASURER KOPP: There he is, over there.

LIEUTENANT GOVERNOR RUTHERFORD: Okay, Holt from DHCD, they know that we've been working together with regard to what the State can do and some of the other agencies, and making sure that we are responsible for the funds that we use and they get to the appropriate places, they are not filtered through some bureaucracies and other things that have happened in, in the past.

As was mentioned before, I mean the Comptroller just mentioned that, you know, getting through the last recession they didn't touch the rainy day fund but largely because they used other funds. They raided all these other, you know, funds.

TREASURER KOPP: Well and cut a couple billion dollars, too.

LIEUTENANT GOVERNOR RUTHERFORD: And cut, and cut funds, and cut programs, too. But we know that, and that's been a challenge and we'll try to re, you know, work to get those taken care of as well. But I appreciate the, the support for this matter.

I have one more item. I know people want to get out of here but I have one more item. Before we get to, there was a number that were deferred. But before we get to that, 9-S, which is Transportation Authority, traffic revenue forecast service. We have a 143 percent modification. Is there anyone brave enough to talk about that matter?

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: Deputy Secretary Ports?

MR. PORTS: Jim Ports, Deputy Secretary, Maryland Department of Transportation. I think what you're seeing here, we asked the same question, Secretary Rahn and myself both asked this question. The Secretary was obviously planning to be in here but due to the quick nature of this meeting couldn't make it. But I think what this is to do is to correct a mistake in their original requisition. And the previous contract to this one, the five-year contract, they spent \$1,288,712. And instead of putting that number, which was a not to

exceed number, in this newer contract they went with the contracted amount as a mistake. And so now --

LIEUTENANT GOVERNOR RUTHERFORD: The 493.

MR. PORTS: Correct. Correct.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. PORTS: So they are back here today I guess trying to right their wrong, if you will. I think the wording on the second page is poorly worded. That's what caught my eye and Secretary Rahn's eye.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah, I have a big question mark here.

MR. PORTS: About, about matching the budget. That's not, that's not the way we do business. And so that's, that's why they're here today.

MS. METTLE: Good afternoon.

LIEUTENANT GOVERNOR RUTHERFORD: What is -- yeah, good afternoon. I'm sorry.

MS. METTLE: I'm Jessica Mettle. I'm the Deputy Director of Procurement for the Maryland Transportation Authority. And what Deputy Secretary Ports said is correct. So what happened was when the procurement was solicited it was authorized, we get a funds certification for \$1.2 million. We always had put into our specs that we intended to award a not to exceed contract.

What happened was when the price proposals were evaluated, the amount that was placed on the BPW Agenda item were the estimated quantities that we had placed in for evaluation purposes for awarding the contract. So when the procurement officer prepared the Agenda item and we submitted it, we submitted it with that dollar amount as opposed to the intended not to exceed amount of \$1.2 million. And as Deputy Secretary Ports stated, we do have history that the previous contract that we had for these same services was expended of \$1.2 million. It was actually \$1,288,712.06. That is the actual amount that we spent on the same contract for these services previously.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. So --

MS. METTLE: Okay?

LIEUTENANT GOVERNOR RUTHERFORD: -- there was a scrivener's error the first time through and it was approved and --

MS. METTLE: Yes.

MR. PORTS: Correct.

MS. METTLE: And we have not --

LIEUTENANT GOVERNOR RUTHERFORD: And no one caught it either --

MR. PORTS: We did now.

LIEUTENANT GOVERNOR RUTHERFORD: -- in the great Transportation Department or at Budget and Management? For shame --

MR. PORTS: We caught it now. The new administration, we caught it now.

MS. METTLE: Yes. Yes.

LIEUTENANT GOVERNOR RUTHERFORD: Any questions there?

TREASURER KOPP: It's ironic that it's for the revenue forecast.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah, right.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: Yeah, the revenue forecast.

MR. PORTS: And the toll decreases.

LIEUTENANT GOVERNOR RUTHERFORD: But I mean, yeah, this is for, and tell me again, what is this? This is an economist of some sort that comes in? An econometric firm or something that comes in and tells you how much revenue you may get?

MS. METTLE: So it's a traffic and forecasting consulting services contract. So yes, it's a services contract where when we have tasks that we need to do, and I can actually tell you we've already done three on this contract, for

traffic and revenue. For the toll reductions if we're doing the proposals to do those, they did those services. They helped us perform those tasks and give us the information that we needed. And they are currently working on like the electronic tolling studies and stuff like that.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. All right.  
Yeah, maybe they should have done the Board item --

MS. METTLE: Maybe.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. PORTS: Right.

LIEUTENANT GOVERNOR RUTHERFORD: This goes to the  
typo question.

MS. METTLE: It does.

LIEUTENANT GOVERNOR RUTHERFORD: Attention to  
detail.

MS. METTLE: Yes, sir.

LIEUTENANT GOVERNOR RUTHERFORD: Okay, thank you  
very much. Any other, are we going to talk about the deferred items?

MS. METTLE: So I'm done? Okay.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you.

MS. METTLE: Thank you so much.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: No, wait a minute  
-- no.

MR. PORTS: Run now.

LIEUTENANT GOVERNOR RUTHERFORD: We had, there were a couple of items deferred from the last time through and I know the Comptroller had some questions. I believe you had, particularly as it related to the study of lawyers in the sea, the bottom dwelling organisms. It's getting late.

COMPTROLLER FRANCHOT: Yeah.

LIEUTENANT GOVERNOR RUTHERFORD: Did you --

COMPTROLLER FRANCHOT: I'm told that we are fine with those deferrals and we're ready to move forward unless there's concern that you have and that our questions are mostly answered.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. No, I think I'm fine with that.

COMPTROLLER FRANCHOT: Good.

LIEUTENANT GOVERNOR RUTHERFORD: So I, we still have one that we need a separate vote on.

SECRETARY MCDONALD: Well I was going to say, we had Item 1. I didn't know if you wanted a separate motion on Item 1?

LIEUTENANT GOVERNOR RUTHERFORD: Item 1.

SECRETARY MCDONALD: Which is your Board of Elections \$1.8 million --

LIEUTENANT GOVERNOR RUTHERFORD: Yes. I'm inclined not to support this at all. Rather than just deferring, I am inclined to reject it. I'm willing to defer to my colleagues, though, to possibly, but I just, I just think the public is smarter than, it's smart enough to understand. And there are things such as your own website, there is this new fangled thing called the internet and the, and YouTube that you can put out your own information in terms of how to vote. I don't remember when I went from punch card, the hanging chads, to electronic. I don't remember anyone doing this big PR and education program. I just don't think it's necessary. And somewhere along the line we have to say people are smart enough to figure this out. We want people to vote. But there's quality education in this State. I'm inclined to say no, no, \$1.8 million, no.

TREASURER KOPP: Governor, could I just say I, I'm not prepared to vote against it right now. I'm not prepared to vote for it either. I think the, the representative, the, the procurement official did the best to explain the procurement but I would really like to understand more as you say why we're spending \$1.8 million on this and, and, and what it's to go for and, and we just didn't really hear that. I would personally prefer to defer it and to have the head

of the agency come and explain it and then come to that decision. My immediate reaction was the same. Yes, we haven't used paper ballots for a while but many of us over the years have voted on paper ballots and sort of get the X versus the, but maybe there's more to it than that. I don't, I don't know.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Mr. Comptroller, comment?

COMPTROLLER FRANCHOT: So I think I've died and gone to heaven.

(Laughter.)

TREASURER KOPP: Who would have thought that would be the --

COMPTROLLER FRANCHOT: Yeah, I'm happy to give an enthusiastic second. And the reason I do is not because I don't like these agencies, and I don't like the services they provide. Obviously I do. Linda Lamone, I think the head of the Board of Elections is someone I've worked with for many, many years. The point here is we need more management. Seriously. We have plenty of money, but we can't say no so we end up spending it on everything A to Z and we end up with these problems of shortages or crises. So I'm a huge fan of making incremental adjustments to agency budgets and asking them to go back and do what the previous secretary said he did, which was deliver

these services to these physically and mentally handicapped kids and bring it back under budget. I think that's terrific. Same thing here with the Board of Elections. You know, if we can save, it might only be \$1.8 million but that's a lot of money to the average Marylander. Yeah. And so I think that's the forward course of the State. And I think the result is not less public service, but better, higher quality public service, but also being tight with the dollar. So I'm happy to second it, Mister --

LIEUTENANT GOVERNOR RUTHERFORD: No, I don't know if we have a motion yet.

SECRETARY MCDONALD: Respectfully, I just want to make sure. Is the Comptroller, are you seconding a motion to disapprove or a motion to defer?

COMPTROLLER FRANCHOT: To disapprove.

SECRETARY MCDONALD: To disapprove, thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Well, all in favor?

COMPTROLLER FRANCHOT: Aye.

TREASURER KOPP: No.

SECRETARY MCDONALD: That will make it two to one, disapproved, Item 1 on DBM's Agenda.

LIEUTENANT GOVERNOR RUTHERFORD: So yeah, okay.  
Any other items? Sheila, are we done, we're done --

SECRETARY MCDONALD: We're done what we need to do on that one item. We need a motion on the remaining items that you haven't taken care of already. So --

LIEUTENANT GOVERNOR RUTHERFORD: Is there a motion on the remaining items?

COMPTROLLER FRANCHOT: Move approval.

TREASURER KOPP: Second.

LIEUTENANT GOVERNOR RUTHERFORD: All in favor?

SECRETARY MCDONALD: -- have already been, I mean, we already did the motion on 13 and four, the DJS and DHR, it's already taken care of.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

SECRETARY MCDONALD: So that's why I'm saying --

LIEUTENANT GOVERNOR RUTHERFORD: Yeah. Okay.  
Thank you. Sheila, the University of Maryland?

SECRETARY MCDONALD: University System. Mr. Evans is here from the University System. Can we please leave the room quietly?

LIEUTENANT GOVERNOR RUTHERFORD: Let the folks leave, I guess.

SECRETARY MCDONALD: The meeting is still going on. If you are departing the room, please leave quietly. The University System is next.

LIEUTENANT GOVERNOR RUTHERFORD: Sir?

MR. EVANS: Good afternoon. Joe Evans representing the University System of Maryland. We have three items on the Agenda, and in attendance today we have Dr. Timothy Chandler who is the President of Towson University, here to answer any questions.

LIEUTENANT GOVERNOR RUTHERFORD: I'd like the chancellor to come up.

DR. CHANDLER: Sir.

LIEUTENANT GOVERNOR RUTHERFORD: Good to see you, sir.

DR. CHANDLER: Very nice to see you, too.

LIEUTENANT GOVERNOR RUTHERFORD: I don't have any particular questions. I was going to ask you about --

DR. CHANDLER: I'm delighted to hear that.

LIEUTENANT GOVERNOR RUTHERFORD: -- the state of Tottenham football.

DR. CHANDLER: Perfect. Who would you like to start with?

LIEUTENANT GOVERNOR RUTHERFORD: Have they, are they getting any new players this off season?

DR. CHANDLER: Sadly not, we can't afford it.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: All right.

COMPTROLLER FRANCHOT: How about the rugby team?

DR. CHANDLER: Don't ask.

COMPTROLLER FRANCHOT: Hm.

DR. CHANDLER: Move on.

COMPTROLLER FRANCHOT: Hm.

DR. CHANDLER: No, we're doing fine.

COMPTROLLER FRANCHOT: Good.

DR. CHANDLER: Thank you for asking. Great to see everyone.

LIEUTENANT GOVERNOR RUTHERFORD: Unlike my boss the Governor, I am a Premier League fan.

DR. CHANDLER: We know.

LIEUTENANT GOVERNOR RUTHERFORD: And so I tend to watch that. And I was very pleased to watch the women's World Cup last night.

COMPTROLLER FRANCHOT: Yeah.

DR. CHANDLER: Great games.

TREASURER KOPP: Yeah.

LIEUTENANT GOVERNOR RUTHERFORD: I had to watch it delayed and they were able to win.

DR. CHANDLER: Great games.

LIEUTENANT GOVERNOR RUTHERFORD: It was, I don't know if it was a questionable call on the red card or not. I think you could interpret that she looked like she tried to kick her leg out. And, but she may have been going for the ball. And then Wambach missed the penalty kick anyway, but --

DR. CHANDLER: Right, exactly.

LIEUTENANT GOVERNOR RUTHERFORD: Well, I know wonderful things are going on at Towson. Do you want to tell us about that?

DR. CHANDLER: Well it's our 150th anniversary this year. We graduated 11 students in 1866. We graduated 5,700 students this last academic year. So I think we've made some progress.

LIEUTENANT GOVERNOR RUTHERFORD: A little bit of growth, right.

DR. CHANDLER: We've made some progress. We continue to grow. The system has asked us to grow from our current 22,225 students to about

25,000 over the next decade. We have every intention of doing that with your support and help. We are working very hard in the areas of STEM and in healthcare and health professions. Those are our two fastest growing areas. And we continue to be a tremendous workforce development engine for the State. Eighty-odd percent of our graduates live, work, and pay taxes in Maryland and we're happy for that.

LIEUTENANT GOVERNOR RUTHERFORD: Well, thank you.

We thank them as well.

COMPTROLLER FRANCHOT: Are you the permanent President?

DR. CHANDLER: No, sir.

TREASURER KOPP: You say that with belief --

LIEUTENANT GOVERNOR RUTHERFORD: No one is permanent.

COMPTROLLER FRANCHOT: Yeah, but are you --

DR. CHANDLER: We're all interim to some degree, I believe.

COMPTROLLER FRANCHOT: But you haven't been made the full President yet?

DR. CHANDLER: I have not.

COMPTROLLER FRANCHOT: Well we need to fix that somehow because you're --

DR. CHANDLER: You are very kind. But there's a process and it's very important that we get --

COMPTROLLER FRANCHOT: Yep.

DR. CHANDLER: -- the very best person for the job.

COMPTROLLER FRANCHOT: Is that the system standing behind you there? When is that going to be? Seriously, we have a tremendous jewel of an institution up there in Towson and --

DR. CHANDLER: It's not your responsibility --

(Laughter.)

MR. EVANS: No, it's not.

COMPTROLLER FRANCHOT: When are we going to get it all sorted out? Because God bless Dr. Loeschke. She's an incredible person. But we have someone who is really handling the job and --

MR. EVANS: I can take this back to the system, tell them your concerns. But I'm the rep and I'm from another campus.

COMPTROLLER FRANCHOT: Well I understand that the men's soccer team is going to get another look at up there at Towson. Yep. Which is really, really good stuff. Because that was an unfortunate chapter.

MR. EVANS: I remember those days.

COMPTROLLER FRANCHOT: So delighted. And Towson is something that the State of Maryland is proud of.

DR. CHANDLER: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you.

COMPTROLLER FRANCHOT: Thank you, Lieutenant Governor.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you. I don't, I don't have any other questions. I guess I didn't have any questions, other than Tottenham football.

(Laughter.)

MR. EVANS: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Okay, thank you.

Motion to approve the University --

COMPTROLLER FRANCHOT: Move approval.

LIEUTENANT GOVERNOR RUTHERFORD: Second?

TREASURER KOPP: Second.

LIEUTENANT GOVERNOR RUTHERFORD: All in favor?

THE BOARD: Aye.

LIEUTENANT GOVERNOR RUTHERFORD: I think we have three eyes. Next?

SECRETARY MCDONALD: Secretary Garcia.

MR. ESTRADA: I'm presenting for DoIT, Governor. I'm Deputy Secretary Estrada.

LIEUTENANT GOVERNOR RUTHERFORD: Good to see you again, sir.

MR. GARCIA: Good to see you.

LIEUTENANT GOVERNOR RUTHERFORD: You're now four weeks, five weeks on the job.

MR. ESTRADA: Six-ish, something along those lines.

TREASURER KOPP: Six-ish.

MR. ESTRADA: Good afternoon, Lieutenant Governor, Mr. Comptroller, Madam Treasurer, Luis Estrada, Deputy Secretary of DoIT. I came to Maryland to attend Towson University and am still here paying taxes.

(Laughter.)

MR. ESTRADA: Today we have 13 items on the Agenda. We're withdrawing Agenda Item 1-IT.

LIEUTENANT GOVERNOR RUTHERFORD: Oh, you're -- okay. All right. That was going to be my first question.

SECRETARY MCDONALD: He may have anticipated.

MR. ESTRADA: I'd be happy to answer questions about any other DoIT items, and we have agency representatives for the other items.

LIEUTENANT GOVERNOR RUTHERFORD: I think this is just a carry over from my kind of last meeting. And I know that you all are clearing out a lot of the, the backlog of not so great contracts and items. But one of them that's, I'm struck by the amount of sole source software, and I know that's licensing, and is there an evaluation that goes on in terms of the cost of replacement, the functions that you have, the one and two, 2-IT with DHMH, there is a statement about the procurement. There was a procurement in 2009, or a solicitation, but because it wasn't funded you saved with the legacy system. They went out to the marketplace before they had funding? Was that what essentially happened?

MR. ESTRADA: We have a representative from DHMH here to answer that question. Arthur Blumenthal?

MR. BLUMENTHAL: Arthur Blumenthal, manager of HMIS, Hospital Management Information Systems.

LIEUTENANT GOVERNOR RUTHERFORD: Did you hear my question?

MR. BLUMENTHAL: No sir, I did not.

LIEUTENANT GOVERNOR RUTHERFORD: Oh, okay. The question was in 2009 DHMH stated that they solicited for a replacement to HMIS but there were no funds available so they stayed with the legacy system.

MR. BLUMENTHAL: That's correct.

LIEUTENANT GOVERNOR RUTHERFORD: You went out to the market before you had funding?

MR. BLUMENTHAL: I wasn't, I didn't participate in that but that's my understanding. That the funds were, were anticipated but never, never materialized. If I recall correctly 2009, it was at that time that things turned sour or the economy had a downturn and perhaps that was part of it.

LIEUTENANT GOVERNOR RUTHERFORD: This is FY '09. So okay, so but has, so was there an evaluation that was done at that time? Or --

MR. BLUMENTHAL: There was, there was a complete evaluation based on the criteria that they established at that time. And one solicitation was received, one, one response was received and was never opened for lack of funding.

LIEUTENANT GOVERNOR RUTHERFORD: So was this, and this is probably a DoIT question in terms of, now this is a one-year contract. Is it anticipated that you are going to go back out into the marketplace?

MR. BLUMENTHAL: Well, I believe we're talking about two different things, if I can interject. The 2009 solicitation was for a system called CRIS, which was a replacement of the entire Hospital Management Information System. That was a large --

LIEUTENANT GOVERNOR RUTHERFORD: And this is a module.

MR. BLUMENTHAL: -- it was a very large solicitation. I mean, we anticipated, I anticipated \$10 million to \$15 million for that replacement. What we're talking about today is a, is a maintenance contract on the pharmacy software, which is just one little part of the overall HMIS system. And that, that solicitation is based on, we have, we don't have the software, we have, we don't have the source code so we can't maintain it without the source code, we just can use it.

LIEUTENANT GOVERNOR RUTHERFORD: So this is a, is this a one-year license for that module?

MR. BLUMENTHAL: No, we have the license to use it. This is a maintenance contract --

LIEUTENANT GOVERNOR RUTHERFORD: This is a maintenance for one year?

MR. BLUMENTHAL: For one year.

LIEUTENANT GOVERNOR RUTHERFORD: So you'll be back next year for another 222?

MR. BLUMENTHAL: Well I'm hoping it will be replaced. We're talking about replacing it between now and next year.

LIEUTENANT GOVERNOR RUTHERFORD: So that again --

MR. BLUMENTHAL: Replacing, of us and HMS assuming the responsibility for the maintenance of the contract. The reason we can't, we could not do it before, we didn't have the personnel before. We were running with two people instead of the budgeted five for the past five years. We now have the personnel with the knowledge to be able to do that.

LIEUTENANT GOVERNOR RUTHERFORD: So let me ask I guess a question, is there a plan to replace HMIS? Is that what you're saying?

MR. BLUMENTHAL: There is no plan in place. There is talk of a plan to replace HMIS.

LIEUTENANT GOVERNOR RUTHERFORD: That's like me talking about working out.

MR. BLUMENTHAL: Yeah, I'm sorry.

(Laughter.)

MR. BLUMENTHAL: Those decisions are made by your, by, you know, by --

LIEUTENANT GOVERNOR RUTHERFORD: Or by the boss man behind you.

MR. BLUMENTHAL: By the bosses.

MR. MITCHELL: So I just --

MR. BLUMENTHAL: Oh, he's right here.

MR. MITCHELL: -- just had this brought to my attention three weeks ago, went over it with Art. It really doesn't make any sense why we've been doing this for the last two or three years, I guess, on an annual basis. We have a number that's much lower than this if we have the personnel to do it so I've directed Art to do that. So hopefully we will replace this source code in the next three to four months.

LIEUTENANT GOVERNOR RUTHERFORD: And that's for the entire system? Or is that just for this module?

MR. MITCHELL: That's just for this particular module.

MR. BLUMENTHAL: We have our --

MR. MITCHELL: As far as the MMIS, that's a totally different animal, and that's a big animal.

LIEUTENANT GOVERNOR RUTHERFORD: Is anybody able to answer that animal?

MR. ESTRADA: I think the larger question here, Governor, is what you're driving at, is the sole source contracts for these types of awards.

COMPTROLLER FRANCHOT: Mm-hmm.

MR. ESTRADA: And it's something we struggle with internally. Because what we see is the vendors are the only ones that can update and manage their software, and that itself becomes justification for the sole source.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. ESTRADA: We're looking at ways to look into this deeper and find ways to remedy this. Because it's, I'm not very happy on how we, these things just keep rolling over and rolling over. And this one is for \$200,000, the next one will be for 250, and --

LIEUTENANT GOVERNOR RUTHERFORD: Yeah. We have a \$641,000 one that goes back to 1995.

MR. ESTRADA: We're well aware of the situation. And we're finding ways to come up with this.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah. That's not in your department.

MR. MITCHELL: That's okay.

TREASURER KOPP: Is this something that has, I mean, a lot of these are very old and I wonder --

MR. ESTRADA: Absolutely.

TREASURER KOPP: -- nowadays when you get something, is it more inter, I mean, are you less wed to the original --

MR. ESTRADA: So a lot of the legacy systems have these type of vendors embedded in them. And so we'll see a lot of, you know, the usual --

TREASURER KOPP: Yeah.

MR. ESTRADA: -- you know players that you're going to see in these things. And there is nobody else that can do it. They own the code. Right? So we're tied into the maintenance. And the difficulty as you're finding is how do we break this cycle?

TREASURER KOPP: Right.

MR. ESTRADA: And the answer is really we have to look at the State's legacy systems and take us out of it.

TREASURER KOPP: But so if you go into a new type of more, whether it's on the cloud or whatever, new computing, you won't have as much of that?

MR. ESTRADA: We won't build these systems in where we're married to one vendor.

COMPTROLLER FRANCHOT: Governor? Just Mr. Secretary, while I have you here, I'd love to come and meet with you on the Upper Shore Mental Health Center.

MR. MITCHELL: We are calling, we've been calling your office.

COMPTROLLER FRANCHOT: Fabulous.

MR. MITCHELL: We have a date not only for that, but the facility review.

COMPTROLLER FRANCHOT: Excellent. And then just one other question. Thank you, I read in the paper that the Health Exchange Board held up a contract to take a look at it. I really think that's, I love that caution. And if you want to send some of those over to take, for us to take a look at them too, feel free. We can only, you can only benefit from extra eyes and attention.

And then finally is there any status on the money that the taxpayers, i.e. probably mostly at the federal level, our federal, our Maryland taxpayers who paid federal money, lost through the Maryland Health Exchange?

MR. MITCHELL: There's an ongoing settlement which I'm not a party of, because I recused myself from the day I took office. But the AG's Office is handling it for the State of Maryland. And it is ongoing, from what I understand.

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

MR. MITCHELL: Sure.

COMPTROLLER FRANCHOT: -- but interested because it was -

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MR. MITCHELL: I can have them call you for an update.

COMPTROLLER FRANCHOT: -- a huge amount of money.

Maybe they could --

MR. MITCHELL: Absolutely. Sure.

COMPTROLLER FRANCHOT: -- come over and update us.

MR. MITCHELL: And as far as the procurement --

COMPTROLLER FRANCHOT: Yeah.

MR. MITCHELL: -- I have relayed your messages and we have all of our new board members on place, in place, so they are aware of what's happened in the past and how the procurement is going to happen.

COMPTROLLER FRANCHOT: I asked for it to benefit them.

MR. MITCHELL: Mm-hmm.

COMPTROLLER FRANCHOT: Thank you.

MR. MITCHELL: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you. And on, continuing with DoIT, there are a couple of items, 10-IT, where you are allowing for a recompetete, or competition, you are asking for an extension for the

competition. This is A&T Systems, extending for, it's sole source again but it's extending for six months to bid this out. And I guess this goes back to our whole question about the tickler to know when contracts are ending and being able to bid at an appropriate time.

MR. ESTRADA: This wasn't a missed contract that was coming up. It was a change in strategy. So this contract has, I guess last time we talked about toll free services and we talked about a strategy where we're separating out the infrastructure pieces from the service pieces.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. ESTRADA: I mean, this is along those same lines.

LIEUTENANT GOVERNOR RUTHERFORD: This is a service contract?

MR. ESTRADA: And along with hosting infrastructure as well.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. ESTRADA: So we're separating those out. And that will allow us to provide a sort of enterprise hosting capability separate from the services required of this particular program.

LIEUTENANT GOVERNOR RUTHERFORD: Okay, all right, very good. And then I have a question on 11-IT. It's allowing time to compete for a new system. And it says that it's, it supports the Work Force Information

database, Geographical Solutions. Is this, this is not GIS, is it? I'm only going on the name of the vendor.

MR. ESTRADA: For this I believe we have Secretary Schulz.

MS. SCHULZ: And team.

MR. ESTRADA: And team.

LIEUTENANT GOVERNOR RUTHERFORD: And team.

MS. SCHULZ: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Hello, Madam Secretary.

MS. SCHULZ: Hello, and good afternoon. And we do have all the information on it. I don't know if you had one specific question on MWE specifically?

LIEUTENANT GOVERNOR RUTHERFORD: Well I guess the, we're extending the contract to allow for competition. Was this one where we didn't realize the contract was coming to an end and --

MS. GUNTHER: No, good afternoon. This is Willis Gunther, I'm Assistant Attorney General for the Department of Labor, Licensing and Regulation. This is actually a procurement we've been working on for 18 months with DoIT, back and forth.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MS. GUNTHER: And we just really ran out of time. We were trying to do it correctly. It, the procurement is on the street. It was posted May 1st. And --

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MS. GUNTHER: -- it will be, the responses are due back this week from the bidders.

MS. SCHULZ: And Governor, I wanted to let you know that previously when this award was first put out in 2013, I believe it was, it was a sole source contract. So the RFP that we actually put on the street was a competitive bid to make sure that we had competition that came in. And that is what we worked with DoIT on, to make sure that that went out on May 1st. And like Willis said, it will, responses are due back June 26th, on Monday.

LIEUTENANT GOVERNOR RUTHERFORD: All right.

MS. SCHULZ: We just need the extension to be able to cover that gap. The Maryland Workforce Exchange is where we have the computer systems in all of our One Stop American Job Centers where it provides those employment services for people within workforce development.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

TREASURER KOPP: Do you have a sense that you'll be getting competitive bids? Or is it too early to --

MS. SCHULZ: I think it's too early to tell. It's my understanding that this company, and it's kind of similar to what Secretary Garcia had said. When you get into these systems that are so defined within the industry, I believe this system is used in I believe all except five states with their workforce development units. So there may be other options out there. But I think we had to take that opportunity to look to see what was available.

TREASURER KOPP: Yeah, see what was available.

LIEUTENANT GOVERNOR RUTHERFORD: All right. Thank you very much.

MS. SCHULZ: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: And then lastly for me, 12-IT, call center. And again, this is also an extension. Now it states that you were scheduled to reissue the contract June 8th, so I guess it's now on the street?

MR. ESTRADA: It is.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. All right. Okay. That's, that was really the only, I just wanted to make sure it was out there when I saw the June 8th.

MR. ESTRADA: That's correct.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Any, any questions on the IT?

COMPTROLLER FRANCHOT: Move favorable.

TREASURER KOPP: Second.

LIEUTENANT GOVERNOR RUTHERFORD: Second? All in favor?

THE BOARD: Aye.

MR. ESTRADA: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you. That wasn't difficult. Transportation?

MR. PORTS: Thank you, Lieutenant Governor, Madam Treasurer, and Mr. Comptroller. Good afternoon. For the record, I'm Deputy Secretary Jim Ports representing MDOT. MDOT is presenting 15 items today, as 2-C is being withdrawn at this time and will be presented at a later date.

LIEUTENANT GOVERNOR RUTHERFORD: Any questions? I noticed you're starting the engineering aspects on replacement of the Nice Bridge, which I've always called the 301 Bridge.

MR. PORTS: Correct.

LIEUTENANT GOVERNOR RUTHERFORD: It's only in recent years that I knew it was the Nice Bridge. I always called it the 301 Bridge. So

that's starting. That's good to see. I did have, and I, this is a carry over of my questions from the last, last meeting. Not on 3-AE, but the on call contracts and particularly some of them that are a little smaller. And I'm sorting through. But maybe it's 6-AE, 7-AE, that it seems as though Transportation and State Highway and some of the other modals only seem to utilize the big guys. I mean, the big, you know, the JMTs of the world, the A/E Con. Not that, I don't anything against, you know, Wallace Montgomery and some of the others out there. But I don't see that much diversity in the contracts. Do we, does State Highway get some of the smaller, small and minority A&E firms that come in and bid and they just don't have the qualifications? Or are they just scared to bid?

MR. PORTS: No, they, SHA and the other modes do have some other smaller contracts. We also use the small business reserve.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MR. PORTS: As a, as a way to procure as well as other opportunities for MBEs, and if there's federal funds DBEs, to be utilized. A lot of times what happens is some of these services are very prescribed and you need certain technical skills. And that's why you'll see a lot of times you'll see the technical ratings in here --

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. PORTS: -- as, as part of the evaluation. And what we try to do is to encourage other firms, and that includes firms that might be held by majority members, to first subcontract or joint venture with others that, that are going to be the, be the primaries so that they can get those, get their name known and get those technical aspects done and approved by, by all of our MDOT. So actually we're working along those lines with Madam Secretary in DGS and, and we're going to be exploring more ways to create more opportunities for others to break in. But you're still seeing some of the, you know, the current, current way of doing business right now. And as we move forward I think you're going to see even more significant changes.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. I appreciate that. Okay. I had mentioned earlier, and this is 14-RP. This was at the buy high on the Program Open Space and we sell low. I know, you're shaking your head --

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: -- and we sell low when it comes to Transportation. Transportation, and I know your property is only worth what someone is willing to pay for it.

MR. PORTS: Bingo.

LIEUTENANT GOVERNOR RUTHERFORD: But it does, the dichotomy, when I looked at Program Open Space that we buy at the top of the range and then we say, hey, we're going to sell it. And the thing that got me on this is that we put it out to auction twice, this property.

MR. PORTS: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: In Montgomery County, of all places. That's, you know, that's usually a hot marketplace. We put it out to auction and nobody wanted it. Two acres in Montgomery County and no one seemed to want it. And then all of a sudden this Mr. and Mrs. Barkley said, hey, we'll buy it.

MR. PORTS: That's exactly right.

LIEUTENANT GOVERNOR RUTHERFORD: Hey, that's a little different, isn't, it? You know? I mean --

MR. PORTS: Well, I mean, as you know, you have appraisals and as you mentioned --

LIEUTENANT GOVERNOR RUTHERFORD: So was the auction they started off at the appraised value and people were all saying, no, I don't want this?

MR. PORTS: Let, let me bring Glen Carter up to talk.

MR. CARTER: Yes, I'm Glen Carter. I'm with the Maryland Department of Transportation, Office of Real Estate and Management. This particular property, we did have two auctions on site. The first time we had someone reach up to \$150,000. That was as much as we could get, so we had the auction fail. And then the second auction which was six months, well actually three months afterwards, no one showed. There was neighbors there but no one bid. No one came with a cashier's check. So at that point that's when we, we did, we just reached out to, to prospective buyers and sent blast emails out. And Mr. and Mrs. Barkley eventually presented a bid which was very acceptable for, you know, the circumstances that we went through. It's 94, 95 percent of the appraised value.

TREASURER KOPP: Of the lower appraised value.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah, of the lower appraised value.

MR. CARTER: Yeah. The selected, the selected appraisal, the negotiated appraisal was the 275.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. CARTER: So that was based on the fair market value for that, that site.

LIEUTENANT GOVERNOR RUTHERFORD: All right.

MR. CARTER: Okay.

LIEUTENANT GOVERNOR RUTHERFORD: Just a dichotomy, that's all. Okay. Thank you. Any other questions on Transportation?

COMPTROLLER FRANCHOT: Move approval.

LIEUTENANT GOVERNOR RUTHERFORD: Second? We have a motion here.

TREASURER KOPP: Second. Second.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. All in favor?

THE BOARD: Aye.

LIEUTENANT GOVERNOR RUTHERFORD: All right. Thank you, Department of Transportation.

COMPTROLLER FRANCHOT: Last one.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah, last one. I just have one question. I just, and it's actually not much of a question.

MR. PORTS: Lieutenant Governor?

LIEUTENANT GOVERNOR RUTHERFORD: Sir?

MR. PORTS: I needed to say one other thing real quickly. Tom Hickey, who has served us well at MDOT --

LIEUTENANT GOVERNOR RUTHERFORD: Oh.

MR. PORTS: -- as our Procurement Officer. This is his last meeting. He'll be leaving us. He's going to University of Maryland System. They stole one of our, our good ones here. It's been great working with Tom. And I just wanted to let you know that you may see him again, but he'll be in a different suit.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Well we'll make sure we --

(Applause.)

LIEUTENANT GOVERNOR RUTHERFORD: Thank you. Thank you, Tom, for your service, and now you're going over to the University System. We'll have to look at their budget situation.

(Laughter.)

TREASURER KOPP: Improvement to the University, though.

LIEUTENANT GOVERNOR RUTHERFORD: I think we have Department of General Services.

MS. BASSETTE: Good afternoon, Lieutenant Governor, Madam Treasurer, and Mr. Comptroller. For the record, my name is Gail Bassette, Secretary of General Services. The department has 24 items on our Agenda, including one supplemental. And we are withdrawing Item 12-LL at the request of the using agency. We'll be glad to answer any questions you may have.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. I don't have any questions. I do want to point out 11-LL is the Canal Place Preservation and Development Authority. And I particularly wanted to mention the lease to the Western Maryland Scenic Railroad. I had the opportunity a couple of weeks ago to take in that railroad. It was, it was, you know, a wonderful trip. I guess I first found out about it on a rainy Sunday. I was watching public television, and it was Great Rail Travels, or something of that nature. And they talked about all the railways, historic railways in the United States and they included the Western Maryland. And so when I had an opportunity to be out there I decided to go. We were on an official visit in Western Maryland. We did pay for our tickets out of our own money because we were not, even though they treated us well once they knew who we were on the, on the train, but we did pay out of our pockets. And it was quite enjoyable. So I encourage anyone who makes their way to Cumberland or Frostburg to take in the train. It fills up when you get to the autumn time. But it's a good ride and it's enjoyable.

TREASURER KOPP: Could I say it fills up because it's amazing.

LIEUTENANT GOVERNOR RUTHERFORD: Yes.

TREASURER KOPP: When the leaves are changing it's worth it to try and that's all you can do is try to get a reservation ahead of time. It's fantastic.

LIEUTENANT GOVERNOR RUTHERFORD: The leaf peepers as they call them, right? I don't have any other questions.

TREASURER KOPP: I'm a leaf peeper.

LIEUTENANT GOVERNOR RUTHERFORD: Yes? Any questions?

COMPTROLLER FRANCHOT: None. Move approval.

LIEUTENANT GOVERNOR RUTHERFORD: Is there a second?

TREASURER KOPP: Second.

LIEUTENANT GOVERNOR RUTHERFORD: All in favor?

THE BOARD: Aye.

LIEUTENANT GOVERNOR RUTHERFORD: All right. Thank you. Thank you everyone, particularly those hardy souls for staying here.

(Whereupon, at 3:40 p.m., the meeting was concluded.)