
STATE OF MARYLAND
BOARD OF PUBLIC WORKS
GOVERNOR'S RECEPTION ROOM, SECOND FLOOR, STATE HOUSE
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March 9, 2016
10:04 a.m.

PRESENT

HONORABLE LARRY HOGAN

Governor

HONORABLE NANCY KOPP

Treasurer

HONORABLE PETER FRANCHOT

Comptroller

SHEILA C. MCDONALD

Secretary, Board of Public Works

GAIL BASSETTE

Secretary, Department of General Services

DAVID BRINKLEY

Secretary, Department of Budget and Management

KEVIN REIGRUT

Assistant Secretary of Operations, Department of Transportation

MARK BELTON

Secretary, Department of Natural Resources

DAVID GARCIA

Secretary, Department of Information Technology

JIMMY RHEE

Special Secretary, Governor's Office of Minority Affairs

MISSY HODGES

Recording Secretary, Board of Public Works

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PROCEEDINGS

GOVERNOR HOGAN: Well, good morning.

AUDIENCE: Good morning.

GOVERNOR HOGAN: Thank you all for joining us. We had a little announcement yesterday I want to just briefly touch on this morning as we get started. Over the first 45 days of the legislative session 85 new mandates to increase spending have been introduced, totaling \$3.7 billion. Every single day of this legislative session, legislators have proposed about \$80 million a day in new mandated increases in spending. And if these new spending mandate increases were to pass, our deficit would skyrocket to \$2.1 billion.

These mandates I believe threaten the progress that we've made over the past year and reinstating the practice of spending beyond our means runs counter to the bipartisan efforts to bring lasting fiscal responsibility to our budgeting process. If these bills were to pass we would probably have to vote against every single budget item that ever comes before the Board of Public Works. So those of you who have items before us today are the lucky ones. You may still have a chance. You may still be able to just make it under the wire. But if these reckless actions were to be enacted in the future I believe that we may need to turn down every single funding request to ever come before this body in the future. So, because there won't be any way to pay for them all.

With that, I will turn to my colleagues for any opening remarks and we'll start with Comptroller Franchot.

COMPTROLLER FRANCHOT: I was going to let the Treasurer go because she's always very articulate on all these subjects. But I --

GOVERNOR HOGAN: We're going to give her a shot.

(Laughter.)

COMPTROLLER FRANCHOT: -- I actually, Madam Treasurer, you know I normally show up with a huge book. And it's --

TREASURER KOPP: Yes.

COMPTROLLER FRANCHOT: -- frankly it really sometimes hurts my elbow that I'm carrying --

GOVERNOR HOGAN: It's still twice as thick as mine.

COMPTROLLER FRANCHOT: Yeah but --

TREASURER KOPP: You guys have got to get with it --

(Laughter.)

COMPTROLLER FRANCHOT: But we, we average about \$450 million in spending at an average Board of Public Works meeting and today's has a grand total of \$36 million. So --

GOVERNOR HOGAN: Paring it down.

COMPTROLLER FRANCHOT: -- I don't know whether you're doing it for my elbow, or whether you're just doing it out of fiscal caution but --

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GOVERNOR HOGAN: It's a little bit of both, actually.

COMPTROLLER FRANCHOT: -- yeah, well it's good. It's, I'm delighted that we have such a great group of people with the wonderful weather. And if I could, Governor, I don't know whether you would permit me a point of personal privilege but we have some folks from Goucher College here.

GOVERNOR HOGAN: I see that.

COMPTROLLER FRANCHOT: And I have the unbelievable honor and privilege of being the Politician in Residence this year at Goucher College. And --

TREASURER KOPP: Oh.

GOVERNOR HOGAN: Wow.

COMPTROLLER FRANCHOT: -- and I think the political science students are down here accompanied by Dr. Mileah Kromer. Dr. Kromer is well known. She's no stranger to public affairs in the State of Maryland. And she is the author of the much ballyhooed Goucher Poll that goes out and in addition to that she has a huge --

GOVERNOR HOGAN: I've been following those polls.

(Laughter.)

COMPTROLLER FRANCHOT: Yeah, well --

(Laughter.)

COMPTROLLER FRANCHOT: -- I wonder, Dr. Kromer, if you could bring your students up and we could get a photo with the Governor and the Treasurer and myself? Just to thank you, my personal way of thanking you for --

TREASURER KOPP: As the students are coming up let me only point out to Professor Franchot, I myself am an honorary graduate --

GOVERNOR HOGAN: Professor.

TREASURER KOPP: -- of Goucher --

(Laughter.)

GOVERNOR HOGAN: Nice to see you. Hi. How are you? Nice to see you. Hi. How are you? Doctor. Nice to see you. So how are we going to do this here?

COMPTROLLER FRANCHOT: I don't know. We're going to squeeze in. Dr. Kromer, come on over here next to the Governor.

GOVERNOR HOGAN: Go ahead, here. Right. I probably shouldn't have had breakfast.

(Laughter.)

THE PHOTOGRAPHER: That's good right there. Yes, sir. Perfect. Just let me get --

GOVERNOR HOGAN: All right.

THE PHOTOGRAPHER: Okay. Looking really good there, folks.

(Laughter.)

GOVERNOR HOGAN: All right.

THE PHOTOGRAPHER: Got it. Thank you.

GOVERNOR HOGAN: Thank you.

COMPTROLLER FRANCHOT: Thanks, guys.

TREASURER KOPP: Good work, Professor.

COMPTROLLER FRANCHOT: Thank you.

GOVERNOR HOGAN: Professor Franchot, I like that.

COMPTROLLER FRANCHOT: But if I could also just mention if you haven't noticed that the nice weather is signaling that baseball season is right around the corner. And frankly it's like Christmas for my Chief of Staff Len Foxwell, because all things baseball are important to him. And when he sees the pitchers and catchers reporting across the major leagues a couple of weeks ago, he really brightens up. And I continue to hold out the hope that the Os and the Nats will meet in the World Series in October. Hopefully they're not going to let us down this year. But in the meantime, if I could, just remind folks that Maryland is home to some of the finest intercollegiate sports programs in the country, as well as some of the most exceptional student athletes that one could ever hope to meet.

Frankly, these kids around the State that compete, often in front of very small crowds, represent the best and the purest aspects of sports. And

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obviously we're all following our nationally recognized Terps and Lady Terps basketball teams. That is something where there are lots of people who show up. But how about Coppin State's men's and women's teams, both of which are still very alive in their respective MEAC conference tournaments? The men, in fact, pulled off quite an upset the other night over North Carolina A&T in the opening round of the tournament.

But there are so many other sports to choose from, from nationally ranked Division I lacrosse programs at Towson, Hopkins, and Loyola, to that perennial Division III powerhouse down at Salisbury, not to mention the Stevenson program that's getting stronger each year. Frostburg State's baseball team is nationally ranked and off to a six win, two loss start. They recently got the snow off their baseball diamond.

(Laughter.)

COMPTROLLER FRANCHOT: And of course who can forget about Towson University's baseball team, which so famously came back from the brink of extinction three years ago. For reasons many of you recall that team will always have a special place in my heart.

All in all, spring is a great season in Maryland regardless of your sport of choice. They offer a terrific opportunity to get out and enjoy the weather, talk with folks who are the heart and souls of these great institutions. And it's also a chance for families to bring their kids onto our beautiful college campuses

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to enjoy a few games and boost school spirit and bring some attention to our student athletes and Maryland's world class higher education network.

So I just wanted to encourage everyone, Governor and Madam Treasurer, to get out and support our local collegiate teams. It's a treat and an honor to be able to go out there. And you know, it gives you hope for the future.

GOVERNOR HOGAN: Thank you, Mr. Comptroller.

TREASURER KOPP: Well spoken. I would add only, seriously, not to forget the high school teams all over. And most particularly not to forget the marching bands. I played clarinet myself.

(Laughter.)

TREASURER KOPP: And some of my happiest memories. And it's great, I mean, there is nothing like a school game really to get the family together and to really get the juices running. And I'll never play with the Orioles, but every once in a while I think I can play with Wonders Preschool.

GOVERNOR HOGAN: I'd like to hear you play the clarinet.

TREASURER KOPP: It was a while ago. And in fact when the guys got sick, it was always the guys that did it, but when the guys got sick I could play the bass drum, too.

GOVERNOR HOGAN: Wow.

TREASURER KOPP: You just walk around behind it and hit it. I got good at that.

Governor, in response to what you were saying of course there are many bills in the Legislature and if all the bills passed Lord knows what would happen. But the ideas that come in as fodder for discussion, contemplation, and work I think are really very good ones. And I just want to say that I'm very proud to live in a State where the ideas do come forward and we do in the end, in terms of the budget, end up with a balanced budget, which after all is constitutionally required. But after considering a whole range of alternatives, both spending and cutting. And I think Maryland has a very strong system. But it does seem sometimes that there is a deluge of always good proposals, I think more this year, more bills filed this year --

GOVERNOR HOGAN: I think 3,000.

TREASURER KOPP: -- than ever before. Interesting.

COMPTROLLER FRANCHOT: But anyone who thinks that we are flush with money, come to the Board of Revenue Estimates meeting later on today and you'll understand what the real Maryland economy is experiencing. Thank you. I think that's at 3:00 this afternoon. Nobody ever comes to it, but you're all welcome.

TREASURER KOPP: I'll be there.

GOVERNOR HOGAN: I know you will. Anything else, Madam Treasurer?

TREASURER KOPP: No.

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GOVERNOR HOGAN: All right. Let's go ahead and get started with the Secretary's Agenda. Madam Secretary, good morning.

SECRETARY MCDONALD: Good morning, Governor, Madam Treasurer, Mr. Comptroller. We have 12 items on the Secretary's Agenda this morning. We have five reports of emergency procurements. We are withdrawing reports A1 and A2. The agency will bring those reports back when they finalize the details.

GOVERNOR HOGAN: Any questions on the Secretary's Agenda? Hearing none --

COMPTROLLER FRANCHOT: Hang on, hang on --

GOVERNOR HOGAN: Hold on. I should have a gavel.

TREASURER KOPP: Yeah.

GOVERNOR HOGAN: Anything?

COMPTROLLER FRANCHOT: No.

GOVERNOR HOGAN: Is there a motion on the Secretary's Agenda?

COMPTROLLER FRANCHOT: Move approval.

TREASURER KOPP: Second.

GOVERNOR HOGAN: Three-nothing.

SECRETARY MCDONALD: Thank you.

GOVERNOR HOGAN: DNR Real Property?

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MR. BELTON: Good morning, Governor.

GOVERNOR HOGAN: Good morning, Mr. Secretary.

MR. BELTON: Mr. Comptroller, Madam Treasurer, I'm Mark Belton, Secretary of the Maryland Department of Natural Resources. Lest we forget, Mr. Comptroller, the terrific athletic programs across the street at the United States Naval Academy as well.

COMPTROLLER FRANCHOT: Yes.

GOVERNOR HOGAN: Thank you, Admiral.

MR. BELTON: The Department of Natural Resources has 14 items for the Board's approval this morning.

GOVERNOR HOGAN: Any questions on DNR? Is there a motion?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing?

TREASURER KOPP: Governor --

GOVERNOR HOGAN: Oh --

TREASURER KOPP: I -- no not a problem at all. But I just want to note the -- well actually maybe it's in the next one. There is a new section called reason for late report, on some of these? I don't --

SECRETARY MCDONALD: The section is on the item when there is a late report. So that's why you don't see it on some of them.

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TREASURER KOPP: That's very helpful. I mean, it's good to lay out for transparency. I appreciate it.

SECRETARY MCDONALD: Yes. Thank you. Thank you for pointing that out.

GOVERNOR HOGAN: The reason for the late report.

TREASURER KOPP: Yeah, the reason.

GOVERNOR HOGAN: I think we shouldn't have any reasons because we shouldn't have any late reports.

SECRETARY MCDONALD: No, we ask the agencies to explain

--

TREASURER KOPP: Yeah, to come out and admit it is and say why.

SECRETARY MCDONALD: The basis for the emergency, how they selected the contractor, and then if it is a late report, why the late report.

TREASURER KOPP: Yes. Thank you.

GOVERNOR HOGAN: Great. Motion on DNR? Mr. Comptroller is there a motion?

COMPTROLLER FRANCHOT: Yes, move approval.

GOVERNOR HOGAN: Three-nothing, DNR. I like the way this is going so far. Don't screw it up, Secretary Brinkley.

(Laughter.)

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GOVERNOR HOGAN: DBM.

MR. BRINKLEY: You've got it. Good morning, Governor, Mr. Comptroller, Madam Treasurer. For the record, David Brinkley, Secretary of Budget and Management. We have eight items on the Agenda and I hope they move smoothly.

GOVERNOR HOGAN: Questions on the Budget?

COMPTROLLER FRANCHOT: If I could just ask a question about Item 3-S?

MR. BRINKLEY: Kristy Michel and Carol Beck.

GOVERNOR HOGAN: Good morning.

MS. MICHEL: Good morning. Kristy Michel, I'm the Deputy Superintendent for Finance and Administration at the State Department of Education.

COMPTROLLER FRANCHOT: Terrific.

MS. MICHEL: I'm happy to answer any questions you have.

COMPTROLLER FRANCHOT: Yes, no, this is a \$468,000 contract to get a Washington based research group to calculate the amount of funding local school systems provide to public schools in Maryland. Obviously I have no problem with getting the data, but don't we have that already?

MS. MICHEL: We collect the data at a school system level, not at a school level. So we have it for all the 24 local school systems. We currently do

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not collect it at an individual school level, which would be needed to calculate, accurately calculate commensurate funding under the charter school law.

COMPTROLLER FRANCHOT: Okay. But that's something that is relatively administrative, isn't it?

MS. MICHEL: I think it's difficult. Our current system couldn't handle that level of data, and the 24 local school systems all capture that data differently. Which is why the law, the Public Charter School Improvement Act actually requires us to hire an outside consultant with the Department of Legislative Services to get this work done. So local school systems, for example, could count special education services in their central office in some cases, and others may actually deploy those resources directly to a local school. So there's, we're not necessarily comparing apples to apples when we look at school funding.

COMPTROLLER FRANCHOT: Okay. And this is mandated by the federal --

MS. MICHEL: No, this was part of the Public Charter School Improvement Act that was enacted last year by the General Assembly.

COMPTROLLER FRANCHOT: Okay. Okay. I understand that. And then Item 2-S is a larger item, this comes from the general fund, \$5.2 million for implementation of assessments for students with significant cognitive disabilities, which we all, everybody is very supportive of helping those kids and doing exactly what needs to be done. But can someone help me understand

exactly why we're spending \$5 million in this category? Is it, especially we're using an Arizona based company?

MS. MICHEL: Sure. And we're actually, by going through the intergovernmental cooperative agreement with Arizona saving quite a bit of money and moving away from our current Alt-MSA, which is a portfolio based assessment, to an online assessment. We're going to save about \$2.8 million a year by moving in this direction. So we agree that, we know that it's expensive and the tests for this population of students, which you noted have severe cognitive disabilities, are more costly than our regular assessments. But we do feel we've reached some efficiencies in cost savings by going this route.

COMPTROLLER FRANCHOT: Okay. Thank you.

MS. MICHEL: Thank you.

GOVERNOR HOGAN: Thank you.

TREASURER KOPP: Could I ask, what do we give up by not using a portfolio based --

MS. MICHEL: If you don't mind, I'm going to call up our Director of Assessments who can answer that question. This is Doug Strader. He manages our assessments program.

TREASURER KOPP: Good morning.

GOVERNOR HOGAN: Good morning.

MR. STRADER: Good morning.

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TREASURER KOPP: Just briefly, what are the trade-offs?

MR. STRADER: So the trade-offs, I actually have a subject matter expert here with me too, Trinell who was part of the technical write ups of this. But from the portfolio approach, you have the trade-offs in looking at how we're assessing these particular students. So we're going from a six-month portfolio assessment, collecting artifacts that are teacher developed, to taking a point in time approach where there is a tiered approach to the assessment, where students kind of settle in in particular bands and are assessed over, it's roughly a, what is it a week window? Two-week window? Which occurs within two months. So you're going from a customization of a teacher specific assessment to a more efficient use of a particular range. Now do you want to talk about the details of the assessment itself?

MS. BOWMAN: Sure. So with this particular assessment --

SECRETARY MCDONALD: Can you introduce yourself, please?

MS. BOWMAN: Oh, sorry. Trinell Bowman, I'm formerly the program manager at the Maryland State Department of Education. So the difference I think between the alternate assessment that we've had in place for the last ten years versus the assessment we're moving to, as Mr. Strader indicated, the Alt-MSA was a portfolio based assessment that lasts a six-month window and it was really teacher developed. And we did have an opportunity through the Senate Bill 557 to actually do a review of that particular assessment and get feedback

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from teachers and parents and administrators. And what we found was it was very challenging and difficult to have teachers actually creating an assessment in which their students would be measured against, whereas as we're moving to the new assessment it allows teacher experts and content experts in the field to work together to develop items alongside with the vendor.

TREASURER KOPP: Our teachers?

MS. BOWMAN: Yes. So our teachers will be involved, a subset of our teachers from Maryland along with the other states will be part of item reviews to actually give feedback around the expertise of the population which they work with versus actually depending on an individual teacher to create the test.

TREASURER KOPP: So you assume it's usable in terms of teaching and dealing with the individual students --

MS. BOWMAN: Right. So we'll --

TREASURER KOPP: -- after the test taking?

MS. BOWMAN: Correct. So --

TREASURER KOPP: As the portfolio system was?

MS. BOWMAN: Yes. So like our Alt-MSA teachers were able to get individual results --

TREASURER KOPP: Right.

MS. BOWMAN: -- how students actually performed by item. They will also get that same information for the new alternate assessment so they could readjust their instruction.

TREASURER KOPP: Thank you.

MS. BOWMAN: You're welcome.

COMPTROLLER FRANCHOT: So if I could just ask while you're up here, how many kids, is this the total amount of the assessment, \$5.2 million?

MS. BOWMAN: Yes, over the three years.

COMPTROLLER FRANCHOT: Over the three years. So --

MS. BOWMAN: Yes. And Mr. Strader has the break down by year if he wants to provide you with that.

COMPTROLLER FRANCHOT: Right. So how many kids are --

MS. BOWMAN: A little, about 4,800, 4,800 students statewide.

COMPTROLLER FRANCHOT: Okay. Thank you.

GOVERNOR HOGAN: Thank you. Any other questions on the DBM Agenda? Is there a motion?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing, DBM. Good job. Now we're going to move on to the University System Agenda. Good morning.

MR. EVANS: Good morning. Joe Evans representing the University System of Maryland. We have one item on the Agenda. I'm here to answer any questions.

GOVERNOR HOGAN: Wow, one item. Any questions on the one item?

TREASURER KOPP: It's a big one.

COMPTROLLER FRANCHOT: No. Move approval.

GOVERNOR HOGAN: Seconded. Three-nothing on the University System.

MR. EVANS: Thank you.

GOVERNOR HOGAN: Thank you. Now we're going to move on Information Technology Agenda. Mr. Secretary?

MR. GARCIA: Good morning, Governor, Mr. Comptroller, Madam Treasurer. David Garcia with the Department of Information Technology. Today we have seven items on the Agenda and we have agency representation to answer any questions you may have.

GOVERNOR HOGAN: Questions?

COMPTROLLER FRANCHOT: I did on Item 7.

MR. GARCIA: ESRI contract. So we have Mr. Barney Krucoff here. But I feel it's probably important to give the Board a bit of background on this specific item, if I may, Governor?

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GOVERNOR HOGAN: Sure.

MR. GARCIA: So the ESRI licensing history goes back probably a decade or two with the State of Maryland. And what we have before us is a consolidation of the licenses that we use for the State. So this isn't necessarily a DoIT run initiative, this is statewide. This is affecting everything that we do, from highways to DHMH infectious disease, bird flu pandemic, highways, full course in the State.

We came before the Board last summer and then again later with an extension under an emergency contract. This is an extension to the emergency contract. The Board asked us very specifically to come back with some recommendations so Mr. Krucoff assembled a team and went throughout the State polling the users. There's a couple hundred licenses that we're talking here, and probably 1,200 users in total that are using the software.

We also did an RFI and went out to the community and solicited input from our vendors and we found kind of what we suspected all along, is that the suite of software from ESRI is much like Microsoft Office, if you will. It's a number of products that the State has developed software to, invested hundreds of millions of dollars into this software. Moving off without a good plan will cause significant disruptions. And with that, I mean of course the Department of IT is going to follow the direction of the Board and I'll have Mr. Krucoff present his findings now to you.

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GOVERNOR HOGAN: Okay.

MR. KRUCOFF: Essentially we've discovered, or we knew, but we can now quantify, that for every dollar we're spending with ESRI on software we're spending approximately \$12 with Maryland companies, Maryland universities, on services building things on top of the software. We have almost 200 different customized applications throughout the State that are dependent and built on this platform. We also have many contracts in place. There's \$147 million worth of contract capacity that the State has, of which over \$60,000 in task orders have been let where the deliverables may not be GIS primarily. For example you may be paying an engineer to look at flood plains but the deliverable comes in the ESRI format. That would be the format that the Department of the Environment gets it.

There are numerous contracts like that that are open. Changing course will never pay off, is what we've determined. And that our relationship with ESRI is inherently a sole source one. I'll take questions.

COMPTROLLER FRANCHOT: Great. Well, I'm responsible in part for holding this up and you know it was my concerns about the *Washington Post* editorial and other commentary that came in that, you know, God bless him, Governor O'Malley three years ago gave a very, you know, lucrative three-year contract to this company and then shortly after leaving office he gets a big exorbitant speaking fee and consulting arrangement with them. And so that's, it

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got a lot of commentary. And I believe we deferred authorization so that you could test the waters and get some market competition and I understand that the RFI received responses from 12 vendors and the technical steering committee looked at all of those and came up with the explanation that you have given, which is that it would be too expensive and too disruptive to the agencies that benefit from ESRI's services to enter into any kind of competition. So I have a couple of questions for you.

If we vote for this, and I am open-minded on voting for the three-month extension, what happens on June 30th? What's DoIT's strategy for this contract moving forward? And since many of the agencies have complained to me that this would be fiscal and operational calamity if ESRI were somehow dislodged from the contract, I guess there's no hope there'll be any competitive procurement at any point in the foreseeable future. But maybe you can correct me?

MR. KRUCOFF: Our strategy was to move the contract activity to the COTS master contract, which is a master agreement being expanded and coming before you in the interim of this three-month extension. If -- but we may change that plan. We found out -- but that's clearly written in our item, that that's our intention. But we've gotten some feedback that that may not be appropriate. So I'm going to let the Secretary speak to what he'd like us to do.

MR. GARCIA: So our thoughts were if we move it to the COTS contract, which is a master contract, we would have the agencies available to select any other vendors that are on there as well. Instead of providing a single sole source, if you will, they could pick from any other vendors that would suit their needs.

When we initially brought this to the Board last summer we were looking for a one-year extension, which we're now pressing up against. The difficulty that we're having is that this software is so deeply embedded and the investments are so heavy, any rapid change obviously will cause disruptions to the State.

I think we should probably put the procurement out there again and see what kind of pricing we can get and see who can solicit to these things. I don't know what else to offer the Board.

COMPTROLLER FRANCHOT: Well I've heard of too big to fail. Too indispensable to fire I guess is a version of that. But I would, I'm willing to consider voting for the three-month extension as long as there's competition at the end of the process.

MR. KRUCOFF: We can do multiple award, but it would take us a full decade and lots of money to phase out ESRI. We will have a relationship with them for some time. And we do now allow people to use other software. But the fact is, and it was really 20 years that the State has been using ESRI, we

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have consolidated and made it much cheaper to do what the State was already doing. So we feel we're saving about 22 percent a year through this consolidation and I think if you leave it as a multiple award open, we will get other companies but it's going to be a very gradual shift.

COMPTROLLER FRANCHOT: Well I noticed in my briefing documents that one of the concerns that you had was that qualified staff would leave State service if the State forced them to change tools. So that struck me as a bit of an overstatement.

MR. KRUCOFF: The market in ESRI software is vast. It's in the universities. My son is a geography student in high school. They gave him ESRI to learn. There is a much larger market for ESRI trained people than there is for the much more fractured market for the competitors. Not that the people can't learn. But we have 1,600 users, too, within the State of the desktop software. So you're talking weeks of retraining for those 1,600 and lost productivity while they get up to speed as we switch things out. And being on primarily one platform has intangible benefits to us in terms of our ability to work across agencies and to share data.

COMPTROLLER FRANCHOT: All right. Well I just thought it struck me as a little odd, because we go out of our way to provide good retirement and good healthcare and good incentives to our employees, and to suggest that simply because there is a new software vendor that people are going to be leaving

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State employment I thought was a little bit over the top. I was glad it was removed from the most recent briefing documents we got. But anyway, competition I think is something, Governor, that you emphasize and the Treasurer emphasizes.

GOVERNOR HOGAN: Look, I happen to share a lot of the same concerns as the Comptroller, as I did at the last hearing back in November. Back in November we approved an emergency contract for ESRI's geographic information systems software for State agencies with the expressed acknowledgment that the department would go out and competitively bid for these services. Here we are again with a three-month extension of a contract before us and Agenda materials and comments this morning saying that in the future the department is seeking to maintain a sole source relationship with ESRI.

You know, I don't want to rehash all the whole history of the contract because we've done that at previous meetings. But you are well aware of the serious concerns that both the Comptroller and I have on this matter, especially with respect to the appearance of impropriety between ESRI and the previous Governor. I understand that DoIT and other agencies are invested with ESRI and that many people believe that they provide a good service. So I'm going to support this three-month extension. However, I'm only doing so to give you the time to do a new procurement while ensuring continuity of operations.

ESRI may in fact be the eventual winning bidder of the new procurement, but we

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intend to end the practice of sole source contracts in State government, not to continue them forever. So Secretary Garcia, you are going to have to go out and competitively bid these services. Single bids and sole source contracts are simply not acceptable to this Board.

The study committee report referenced in our materials acknowledges that there are competitors in the marketplace. The Comptroller mentioned one Maryland company back in November. I'd also like you to consult with our outstanding universities and the experts in the field, particularly Salisbury University which has an excellent program that assists local governments on the Eastern Shore with mapping. And so you know we understand that you all feel that this is a good vendor. I hope you understand that we don't like sole source contracts and lack of competitive bidding. So somewhere you're going to have to get the message that we delivered last summer and last November and we're not going to continue with this without going out to bid.

MR. GARCIA: Understood.

GOVERNOR HOGAN: I don't care what you think about it. That's the way it's going to be. So I don't know if there's a motion --

TREASURER KOPP: Governor --

GOVERNOR HOGAN: -- on a separate item or we just keep it in the Agenda?

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TREASURER KOPP: -- you spoke for the Board, and correctly, in saying it's always preferable for the entire Board, it's always preferable to have competition and to get the broadest pool to choose from. On the other hand let me say as just one member of the Board I have great respect for the expertise of the people who are in our departments and the depth of experience. I know the work they've done. And it was spurred on by the Governor and the Comptroller to go back and look at this whole situation and to look at the cases and the alternatives.

I'm quite comfortable with the situation as it is now, and I hope we don't go through artificial exercises and end up with something that is less cost effective and less effective for all the purposes of all the agencies and users that depend on it. That's my position.

GOVERNOR HOGAN: So is there any other questions? Is there a motion on the DoIT Agenda?

COMPTROLLER FRANCHOT: Move approval.

TREASURER KOPP: Second.

GOVERNOR HOGAN: Second? Three-nothing. Amazingly we have no Department of Transportation Agenda today. I don't think I've ever seen this before.

MR. REIGRUT: Doing our best to help keep the momentum going, sir.

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(Laughter.)

GOVERNOR HOGAN: Would you pass on to, you know, Secretary Rahn that he's on double secret probation until the next meeting?

(Laughter.)

TREASURER KOPP: Good work.

GOVERNOR HOGAN: We're going to move on to the DGS Agenda.

MS. BASSETTE: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, I'm Gail Bassette, Secretary of General Services. The department has 17 items on the Agenda, including two supplementals. We are withdrawing Items 14, 16, and 17. We'll be glad to answer any questions you may have.

GOVERNOR HOGAN: Any questions of Secretary Bassette, DGS?

COMPTROLLER FRANCHOT: Item 2-C, please? Madam Secretary --

MS. BASSETTE: Yes?

COMPTROLLER FRANCHOT: -- we're I think in this item being asked to extend the length of the contract with Schlosser Company, based in Hyattsville for the construction of the Harriet Tubman Underground Railroad Visitors Center in Dorchester County and we're being asked to do so I think with

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an added cost of \$114,000. According to my background notes the added time and added cost was accountable to a design flaw in the original fire protection system, which necessitated a new design. My first question is kind of obvious. Why are we, the State, paying for this? Why isn't the private sector that we hired to do this properly picking up this extra cost?

MR. SCHNEIDMAN: A reasonable question. Good morning. My name is Mark Schneidman. I'm a senior project manager with the department, in the Facilities Design and Construction Department. This, I agree with you, we typically don't make it a practice to pay for excessive errors and omissions. And errors and omissions are something that we actively and very proactively track on all of our projects. Each project manager keeps a spreadsheet. We evaluate each individual change order for the reason. It could be a field condition, program change, error, or omission.

In this case this is an error and we are tracking this as a total against the original contract. We are actually in a cure process with the design firm. Not necessarily just over this particular item but just over their overall performance. And we're going to evaluate, as we typically do on all projects, at the end of the project where their performance actually, you know, landed. Right now the firm is at about 1.5 percent errors and omissions against the total contract and typically our standard of care that we consider is around three percent. That's not a number that's set in stone. We will often look at not just the value on a

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percentage basis, but what is the actual value? Let's say we have \$1 million on the table, and that's only perhaps half a percent of a very large project. It's still \$1 million. And based on project circumstances at the end of the project we go ahead and evaluate what the overall performance was.

In this instance this firm had some other issues in terms of their performance, the slow processing of contract documents, their participation at progress meetings. And because of that we are currently holding about \$120,000 in payments against their contract. We will perform once again a final evaluation at the end of the day. Because we don't typically feel like we can just assess for every error and omission. It would be expecting perfection of every firm that works for us, and that's simply not possible. At the same time there's also many things that consultants typically do for us that save money. And so all of those factors are weighed into any final decision to take action against a particular firm when errors and omissions are a part of the project.

COMPTROLLER FRANCHOT: Okay. Well I approved this contract with a lot of reluctance back in 2014, along with the Treasurer and then Governor. And I raised the point then that Schlosser, well I had concerns about meeting the federal MBE goal of 30 percent and I see they have only achieved ten percent. And I bring this up because the low bidder, which I thought made awful good sense because it was the low bidder and a Maryland based company called Gilford Corporation, they got disqualified because they were seeking a full waiver

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of the federal MBE. And why was that? That was because Gilford Corporation is itself a minority-owned business. So I guess the situation now is that the total cost of the contract stands at \$14.6 million, nearly \$300,000 more than the bid submitted by Whiting Turner, which was the highest price from a responsive bidder. Gilford got bumped out. I know this is a previous administration's contract, but --

MR. SCHNEIDMAN: And at the --

COMPTROLLER FRANCHOT: -- what is your view in retrospect?

MR. SCHNEIDMAN: At the time, I'm not familiar --

COMPTROLLER FRANCHOT: I know hindsight is 20-20.

MR. SCHNEIDMAN: I'm not familiar with the original award of this contract. It's not one that's under my direct management. I will tell you that at the time that this contract was awarded, there was a policy generally to only count MBE performance on a subcontracting basis. So the prime contractor's ability to meet MBE requirements on their own was not counted. We expected them to get additional MBE to meet the current terms.

I will also say that I believe that the current contract is, they are trying to comply, I think that they are above ten percent. I think they are actually at 29 percent. But I believe that the reporting, as it typically is on this, is a little bit behind actual performance at this time. Our MBE office actively verifies

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contractors' MBE performance and getting paperwork in is, you know, often lags behind where we currently are.

COMPTROLLER FRANCHOT: Okay. Well procurement mechanics aside --

MR. SCHNEIDMAN: Mm-hmm.

COMPTROLLER FRANCHOT: -- when is the visitors center going to be complete and open to the public?

MR. SCHNEIDMAN: I believe that currently actually the building is substantially complete at this time. The overall project is about 85 to 88 percent complete. Weather conditions and wet grounds prevented the completion of all the site work. So final grading, construction of pathways, and things like that is still ongoing. So I believe we're still several months away.

COMPTROLLER FRANCHOT: Thank you, Governor.

GOVERNOR HOGAN: Thank you. Any other questions on the DGS Agenda?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second?

TREASURER KOPP: Second.

GOVERNOR HOGAN: Three-nothing on DGS. What an incredible fast paced meeting this morning. We are adjourned. Thank you, everybody. (Whereupon, at 10:46 a.m., the meeting was concluded.)

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