
STATE OF MARYLAND
BOARD OF PUBLIC WORKS
ANNAPOLIS, MARYLAND

July 28, 2021
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PRESENT

HONORABLE LARRY HOGAN

Governor

HONORABLE BERNADETTE BENIK

Chief Deputy Treasurer

HONORABLE PETER FRANCHOT

Comptroller

JOHN GONTRUM

Secretary, Board of Public Works

ELLINGTON CHURCHILL

Secretary, Department of General Services

GREG SLATER

Secretary, Department of Transportation

JEANNIE HADDAWAY-RICCIO

Secretary, Department of Natural Resources

MIKE LEAHY

Secretary, Department of Information Technology

LISA GRIGSBY

Recording Secretary, Board of Public Works

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PROCEEDINGS

GOVERNOR HOGAN: Well, good morning, everyone. Welcome to the Board of Public Works. First of all, I want to welcome Acting State Treasurer Bernadette Benik, who is sitting in for the Treasurer, who is taking a very well-deserved vacation.

I just want to begin this morning with a brief COVID-19 update. For the past several months, we have deployed a team of 11,400 people and set up 3,000 points of distribution, and launched a number of successful incentives and promotions in a massive all hands on deck effort to make sure that every single Marylander who wants a COVID-19 vaccine can get access to one as quickly as possible. As a result of all those efforts, Maryland is one of the most vaccinated states in the country, and 93 percent of all Marylanders over the age of 65 and 77 percent of all adults 18 and over are now vaccinated. We are one of the most vaccinated states in the country and it has been paying off. As the number of vaccinated Marylanders continues to grow, Maryland now has the fourth lowest case rate in America and the sixth lowest positivity rate in the nation.

If you have been vaccinated, you are safe and we thank you for doing your part. But those who are unvaccinated do remain at risk, especially with

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this highly transmissible variant, the Delta variant, and others. For the Delta variant is said to be 225 percent more transmissible and 1,000 times stronger than the original virus. Nearly every single Marylander who has been hospitalized or has died from COVID-19 since June 1st was unvaccinated. Only 0.07 percent of our entire vaccinated population has gotten an infection of the virus. That means that after more than seven months and more than seven million vaccines in Maryland, that the vaccines have been 99.93 percent effective in our State.

Getting vaccinated is truly the only way for you to protect yourself, your family, and your community, and it's the only way that we will be able to continue on our economic and health recovery. If you are still unsure about getting the vaccine, or if you have questions, please talk to your doctor or talk to friends or loved ones who have already gotten their shot. The potential short term side effects of getting the vaccine that could last for a day or so are nothing compared to the long term effects of getting sick and infected with COVID-19. These vaccines are safe, they are clearly effective, they are readily available everywhere, all across our State, and there is simply no excuse for not getting vaccinated.

From the beginning of the crisis, I have reminded Marylanders that we're all in this together. Getting through this together has required a massive

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effort which involved thousands of public servants who I am so proud of who have been working tirelessly, day in and day out, to help keep Marylanders safe. From standing up and staffing testing sites and then vaccination clinics, and building hospital surge capacity, coordinating with local leaders on State guidance, procuring and distributing PPE, and handing out meals to schoolchildren, these State employees have delivered the highest level of customer service under the most difficult of circumstances. And today we are honored to be joined by just a few of the stand-outs among these thousands of incredible men and women who have been part of this mission. And on behalf of all of the people of the State of Maryland, I want to sincerely thank each and every one of them for their dedicated service to the people of Maryland. And we are going to, I think. ask all of them to come back up here behind us and take a group picture. We have got some citations that everybody has received to thank them, but we want to -- I know it's a crowd. But if you guys could come up behind, we would love to take a picture with you.

COMPTROLLER FRANCHOT: So guys, I have one of my much coveted Comptroller Medallions and as you leave, my staff is going to give each of you a --

GOVERNOR HOGAN: There you go.

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COMPTROLLER FRANCHOT: -- a medallion. The Governor's are more fancy than mine, but --

(Laughter.)

COMPTROLLER FRANCHOT: -- put him on the spot. But who is the chief officer here?

GOVERNOR HOGAN: Most senior rank -- they are from all over the place.

COMPTROLLER FRANCHOT: Well you guys share my --

(Laughter.)

COMPTROLLER FRANCHOT: God bless, that's a challenge coin.

(Laughter.)

COMPTROLLER FRANCHOT: Yeah, yeah --

GOVERNOR HOGAN: That would be way better than a coin.

COMPTROLLER FRANCHOT: -- that would be, I'll leave that up to the Governor.

(Laughter.)

GOVERNOR HOGAN: All right. How about we give them a round of applause?

(Applause.)

GOVERNOR HOGAN: Now of course we have to do some other business.

(Laughter.)

GOVERNOR HOGAN: We appreciate you all very much. Thank you.

Well, thank you for indulging us. (indistinguishable) With that, I'm going to turn it over to the Comptroller for any opening remarks. Or we'll let Bernadette start us off. Yes, that was very nice.

MS. BENIK: Thank you, Governor, Mr. Comptroller. Let me just say, I'm honored to be here to represent Treasurer Kopp, who I know would really enjoy being here but is enjoying vacation, as we said. I know we'll be looking at this on the upcoming Agenda, but just wanted to let you know that we will have having our bond sale two weeks from now and we will be approving that resolution today. We met with the rating agencies yesterday, all day long, and I have to say they had a lot of good questions and had a lot of interaction. The Comptroller was able to join us for one call. And I felt like it went really well. So we're looking forward to that. And our sale two weeks from now is going to be including about

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half a billion dollars in new money and some taxable, but in addition to that we're going to do two refunding issues which we are right now anticipating should save us about \$40 million in debt service savings. So we're really looking forward to a wonderful sale next week. So I just wanted to kind of say that and kind of move on.

GOVERNOR HOGAN: Well, thank you, and please thank all of your team. I'm excited and I'm looking forward to that.

MS. BENIK: Yes.

GOVERNOR HOGAN: We always like to save on money, and make money.

COMPTROLLER FRANCHOT: Absolutely. Well, Governor, thank you, and I'm delighted to be here with you, and you're looking very well, and I also am very pleased to be here with the Chief Deputy Treasurer Bernadette Benik, sitting in for Treasurer Kopp. Bernadette -- well, I didn't know we could substitute.

GOVERNOR HOGAN: I didn't know that either.

COMPTROLLER FRANCHOT: I might have done that --

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GOVERNOR HOGAN: I don't think, I don't think I've ever seen that in six and a half years. But apparently -- I don't know if you can but --

MS. BENIK: Yeah, the Treasurer can --

GOVERNOR HOGAN: -- you --

MS. BENIK: Yes, the Treasurer can appoint an Acting Treasurer and that's what happens.

COMPTROLLER FRANCHOT: There you go.

MS. BENIK: This is what happens to you when you are appointed.

COMPTROLLER FRANCHOT: That's okay. I'm delighted to be here with both of you. And Governor Hogan, eight years ago, after being elected, you visited my office and we sat down and discussed our roles in State government. And it seems like just a small thing to people who are perhaps listening. But it was actually a huge gesture, a first for me, in my then eight years as Comptroller. It allowed me to work aggressively with my indispensable Deputy Comptroller Sharonne Bonardi to make the Comptroller's Office of Maryland the finest tax administration agency in the country and a juggernaut for customer service for the taxpayers in the great State of Maryland. And frankly, just speaking from the heart, I think it laid the path for the two of us to work together, Republican and Democrat,

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for the benefit of all of Maryland, even though we disagree from time to time. And I would say, obviously, we disagree on more than a few issues. But the two of us are now heading in different future directions with different agendas and our country, frankly, is vastly different than it was eight years ago, or even just one year ago. And I just wanted to thank you for being a national adult of the Republican party, pushing for vaccinations to help our country beat this pandemic, establishing mindful and science based steps to really (indiscernible).

Despite the partisan politics that swarm in D.C. just a few miles down the road, your administration, in particular Budget Secretary David Brinkley, has been very helpful with the work group that we established on pandemic spending. This legislative mandate will help uncover, we believe, lessons learned and best practice recommendations for future administrations. Tomorrow's work group will focus on the events and activities of the Maryland Department of Labor, which continues to have waves of ups and downs of applications to be processed. I hope we'll hear that Labor is making progress on helping unemployed and under-employed Marylanders find resolutions to their unemployment insurance issues, and I also hope that we're going to get a handle on stopping fraud.

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I'm particularly glad to hear you are hosting a cybersecurity summit tomorrow, Governor. I hope they have solid recommendations to help stop the bleed of billions of dollars in federal and State dollars in unemployment insurance schemes alone. And this is not something that is unique to Maryland. Every state is suffering from this. I just read in the *Daily Record* about a woman who mistakenly was granted access to the unemployment system by simply clicking on an email sent to her from Canada. According to the article, many of these claimants are apparently fraudulent with nearly 65 percent of the claims made between January 1, 2021 to February 11 being flagged as such. At the same time, this is the article I'm quoting from, "many legitimate claimants are struggling during this time to receive unemployment payments, including those who were erroneously denied benefits or those whose accounts were incorrectly flagged as fraudulent."

Our experts, and this is a rather stunning number, our experts in the Comptroller's Office estimate that it's likely more than \$2 billion have been paid in unemployment fraud in Maryland alone. Just to give you some perspective, California is estimating \$30 billion. Does that mean the unemployment checks should not be sent? Of course No, they need to be sent to people who are genuinely suffering. But I want to thank my staff at the Comptroller's Office for, we have all

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sorts of fraud detections and we're able to keep a handle on this stuff, but we were also able to help Department of Labor's list of people stuck in review with the department sending more, we sent more than \$40 million in emergency grants to more than 40,000 Marylanders who were in limbo on this.

In addition, our work group heard from the Department of Housing during the second meeting of the work group and only a slight percentage of the rental assistance funding from the federal government has been distributed. I'm hoping by our next Board meeting on August 11th, that Housing Secretary Ken Holt can provide a positive update that the bulk of these funds are helping Marylanders avoid evictions, especially since the expiration of the moratorium is just a couple of weeks away.

And then finally on another topic, I'm sorry if I sound like a broken record, but once again, I am incredibly disappointed to see that of the 15 emergency contracts on today's Agenda, 11 were reported late. I know the explanation that I will hear from agency leaders will be that they were busy saving lives during the pandemic. But these late emergency contracts must stop. The Board of Public Works is not a rubber stamp and I for one will not stand by quietly while laws are violated.

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So Governor, I'm asking the Board staff, Secretary John Gontrum in particular, to have his staff prepare an item for this Board's consideration that would modify our emergency procurement regulations. More specifically, I would ask the Board's staff to prepare language that would automatically terminate the emergency contract should the procuring agency fail to bring the item to the Board of Public Works within 45 days as our statutes insist. Enough is enough. Even today, we are being asked to consider one emergency contract for an extension of three years and we just need to restore the authority of the Board and ensure that our agencies are following the rules and laws that govern our procurement system and safeguard taxpayers' money. And I'm sure all of us agree that we must refrain from a continued reliance on emergency contracts and would like to see an end to the lateness of these contracts before our Board. Obviously everybody can look at that proposal down the road and make your minds up. But once again, what we are trying to do is learn from the best practices and difficulties during the pandemic. And this is all supposed to be positive as far as helping to avoid situations that we have lessons learned from the pandemic. Thank you.

GOVERNOR HOGAN: Thank you.

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COMPTROLLER FRANCHOT: Governor and Madam Chief Deputy Treasurer, I'm happy to be here.

GOVERNOR HOGAN: Thank you, Mr. Comptroller. On the unemployment fraud issue, I'll just, you know, I'm glad that you're having discussions with our department. I'll say that we've identified 1.5 million cases of fraud. We have hundreds of thousands of them, that are constantly, you know, on a once weekly basis. We have resolved 97 percent of all unemployment cases. There are about three percent that are stuck in adjudication purgatory, thanks to some really bad laws we have in Maryland we're trying to change with the Legislature. We're one of three states in the country that has this problem. But I'm very proud of the efforts that our department has done stopping fraud. I think it's the best in the nation. We have identified the problem that actually helped California and I think 13 other states find their fraud by working with the U.S. Department of Labor.

I agree with you on late contracts. Obviously, we have worked in the middle of a once in a hundred year pandemic with 450,000 infected people and nearly 50,000 people hospitalized. We lost 9,500 Marylanders and we were in a state of emergency. We did not and could not and are not supposed to follow the

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normal procurement procedures because we had to do things in some cases that day in order to save lives. We couldn't wait 18 months or three years to go through the process. But I agree completely that by now, all of the agencies should be getting up to speed and getting caught up. And we shouldn't have these continual late things being submitted. I totally disagree with the need for emergency contracts. In a state of emergency, it absolutely is a critical need.

With that, we'll move on to the Secretary's Agenda.

SECRETARY GONTRUM: Good morning, Governor, Mr. Comptroller, Madam Chief Deputy Treasurer. It's wonderful to be with you this morning. We have 14 items on the Secretary's Agenda and 16 reports of emergency procurements. Item A14 is being withdrawn. I'm happy to assist with answering any questions.

GOVERNOR HOGAN: Any questions on the Secretary's Agenda?

MS. BENIK: Mr. Governor, I do have a question on one of the items in the Appendix, A4, on the Lottery and Gaming Control Agency procurement.

SECRETARY GONTRUM: We have Director John Martin from the Lottery available via video.

GOVERNOR HOGAN: Director Martin? There he is.

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MR. MARTIN: Good morning. John Martin, Maryland Lottery and Gaming.

MS. BENIK: Good morning, Mr. Martin. First of all, let me say thank you for having your agency respond to questions that my office has presented through Joanna to your staff about this item. My specific question is this. I understand the emergency that was declared to add the services to this contract because of the wagering. And I absolutely have no problem with that. I understand the emergency. I understand why you wanted to do that. What I'm having difficulty understanding is that the contract actually, the term really doesn't expire until almost a year from now, June '22. So what I'm trying to understand is why it is that the agency felt there was a need to declare an emergency to actually extend the contract for three years. So not on what you're adding in, I totally understand. It's just that specific piece, if you could help me understand that.

MR. MARTIN: Sure, I would be happy to. Thank you for asking that. It is customary in software development that once the application is initially designed, that there is a maintenance period for the ongoing utilization of that software. And so what we found with our gaming application, which was the initial engagement with the company, was that after the initial software was built, we have

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an ongoing need for casino gaming, as we will in sports wagering as these entities continue to get new employees, new vendors. So the software is used daily by our staff. And when we, you know, embark on our sports wagering application process, we anticipate an even larger number of applicants than we have with casino gaming and even a greater need to keep the software active and viable, even after the initial wave of applicants, which we anticipate beginning near the end of the calendar year and probably extending for 18 months. So it will be well into the calendar of 2023 with just the initial application process. And then following that, we will have an ongoing need by our staff to continue the background investigations and the licensing as these entities become more dynamic and add employees and add vendors.

MS. BENIK: And I understand that. So can you explain to me, then, why it is that, and I understand the ongoing need. But my question is more focused on if you had just amended to add the services, and then you had not done the emergency and found, you know, just used a, what I would call a normal way to extend the contract, you have 11 months to do that. What was the downside to, what is the downside to doing that versus doing it as an emergency?

MR. MARTIN: I believe as the Lottery team got together and looked at our options, it was the opportunity to do the initial software development and include with it the maintenance period for the sports wagering that really took us from now through the 2025 date, again knowing that the initial applicant process would be at least 18 months, and then we would have the need beyond that. So that initial 18 months takes us well beyond 2022 into 2023. So, you know, potentially it was the difference between doing it now as opposed to coming to you a year from now.

MS. BENIK: Thank you.

COMPTROLLER FRANCHOT: -- because this is just a blatant abuse of the emergency procurement process. And it's exactly what we've been talking about for months. And I would urge that this be remanded, that you bring back the emergency part of it, which is the 18-month or 12-month period that you mentioned. But that the three-year extension, which I consider to be an abuse of the emergency policy that you're using here, go back and do a standard contract modification and bring it before the Board. And that would be, you know, I defer to my colleagues. But that would allow you to do what you need to do to get this program up and running, but it would then get us back to normal practices as far as

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procurement activity. And I don't mean to be harsh. I'm just saying, that's what it looks like to those of us that are outside your agency.

GOVERNOR HOGAN: I guess my question would be, you know, we are in a crunch with tremendous pressure from the Legislature and others to get the sports gaming up and running as quickly as possible. The casino revenue that we're receiving is one of our biggest sources of income. And I guess my question would be, even if you obviously thought about this when you did the contract, if it was necessary, if we were to somehow delay it because of these concerns, how would that potentially impact the time frames or the collection of that revenue that we need?

MR. MARTIN: Well clearly, as you pointed out, there is really two facets of this. There is the initial wave of getting these applicants vetted, background investigations done and licensed in the near term, which again the near term will take us clearly into the first part of 2023. And then following that, it's the ongoing software maintenance and the support that we're really talking about. And that, you know, carries on as we've initially put together the contract through June 30, 2025. So there really are two elements of it. You know, we are on pace to be ready when the applicants start coming in. So I'm comfortable that we will

meet our target and our deadlines on the initial wave. And then it's just the future of the maintenance process and the determination is when that process right now is scheduled to go through June 30, 2022, and the three-year extension was part of this contract.

COMPTROLLER FRANCHOT: The difficulty here is that because it is an emergency procurement, we cannot amend it. We can only remand it back to you and have you bring forward the process that will allow you to move forward without any bad things happening. And all I'm asking is that during the, if we are able to remand it, that you then bring back the three-year extensions non emergency--

MR. MARTIN: I understand.

COMPTROLLER FRANCHOT: -- it could be sole source or proprietary or, you know, other provisions. But I would urge that my colleagues do that. Because I don't think there is a, I mean, the emergency part we're paying, we're already paying. And this is just simply a procedural fix. And --

GOVERNOR HOGAN: My question would be, how fast could you turn that around? Can you do that, and how fast could that happen? Because I don't think anyone wants to see us slow down the implementation of the new laws.

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And I know it's, you're under the gun to try to get it done by the end of the year. Some people are pushing for the fall, but I don't think that's going to happen. But if we drag out a longer procurement on it, I don't want that to screw up the process so we don't have sports betting.

COMPTROLLER FRANCHOT: I guess what I'm told is that you can do that almost immediately and bring back the first tranche of this and then bring the other back on a new basis. But I'll defer to my colleagues as to whether they want to remand it. I think it can be done without any bad things occurring, I'm told.

MR. MARTIN: I certainly understand the ask and I will look into that.

COMPTROLLER FRANCHOT: Well, I would move to remand it and have them bring back the initial part as an emergency procurement, and the three-year extension be brought back as a contract modification.

MS. BENIK: I support that. I agree.

GOVERNOR HOGAN: Okay. All those in favor?

MS. BENIK: Aye.

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GOVERNOR HOGAN: I'm going to vote no, but the motion carries. So two to one.

COMPTROLLER FRANCHOT: Thank you.

GOVERNOR HOGAN: Any other --

MR. MARTIN: Thank you.

GOVERNOR HOGAN: -- questions on the Secretary's Agenda?

MS. BENIK: None for me.

GOVERNOR HOGAN: I --

COMPTROLLER FRANCHOT: I had a question on Item 3. Oh, I'm sorry -- I don't mean to interrupt you.

GOVERNOR HOGAN: No --

COMPTROLLER FRANCHOT: Item 3 is this, this is an issue that we've talked about before. It's the PAAR report. And I think we have, do we have Secretary Leahy on the phone?

GOVERNOR HOGAN: We have him in person, actually.

COMPTROLLER FRANCHOT: Oh, he's here. Where is he?

GOVERNOR HOGAN: He's here --

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COMPTROLLER FRANCHOT: Oh -- welcome. I'd like to just, maybe you could bring us up to date on a number of payments. This is an issue that as I understand it, we've contracted with companies to do permitting for us and unbeknownst to us they were not collecting the permit fees and therefore they came, understandably, to the State Treasury and said we want you guys to pay individual Marylanders' fees for various hunting licenses, etcetera. And that's been a big cause of concern because that's basically the whole State paying for a small number of users. And the question is, this is one \$50,000 payment from the Maryland Treasury to NICUSA, the company, for transaction fees for CVS renewal fees under the Office of Controlled Substances Administration. How many of these payments are you anticipating? And what is the history of this contract with NIC?

MR. LEAHY: Certainly. Thank you, Mr. Comptroller. As you note, the State has had a contract with NIC for a number of years to provide, excuse me, electronic government applications for the State. And over the past year and a half, we have been discussing in fairly considerable detail how this has operated in the past, because the original contract with NIC was that it would be a pass through and that fees would be paid by the users, as you stated. It was determined approximately a year and a half ago that there were a number of instances where

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agencies were paying the fees under what they collected for the license or the permit. And since then, we have moved to not allow any additional new fees to be paid in this manner and these particular fees that you've mentioned in the PAAR report was actually I believe eight payments that were aggregated. And so I have asked my staff to get me a collection of all of these fees that are outstanding, there are several agencies that have worked with NIC, and I'll be happy to report that to you as soon as I --

COMPTROLLER FRANCHOT: -- Please and also to the Board members. Because --

MR. LEAHY: You bet.

COMPTROLLER FRANCHOT: -- I know people are concerned about how many similar transactions there are --

MR. LEAHY: Absolutely, sir.

COMPTROLLER FRANCHOT: -- get a handle on it.

GOVERNOR HOGAN: Thank you, Mr. Leahy.

COMPTROLLER FRANCHOT: And frankly, the Treasurer was the one who brought years ago this issue up and I'm glad, you know, wherever the Treasurer is, tell her that we're trying to get a handle on it.

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MR. LEAHY: Thank you, sir.

GOVERNOR HOGAN: Thank you, Mr. Secretary. Any other questions on the Secretary's Agenda? Or is there a motion?

COMPTROLLER FRANCHOT: Is this -- I had one other one. Items A5 through A16. And I'm very pleased Mr. Leahy is here. These represent the 11 emergency reports I mentioned in my earlier testimony. I guess we have more or less doubled that, at least the one you did. But could you comment, Mr. Secretary, on the costs associated with these emergency reports? I know it's IT support services, acquisition of 5,000 laptops, and about \$4 million, approximately \$1 million for software and software licenses. And aside from my concern about the specific services, it is, why are these 11, what caused them to be so late even though we've been raising this issue for months?

MR. LEAHY: Well, thank you for the question. To start, I agree with you that it is important we not only meet the requirements of the law, but act diligently in reporting how the citizens' funds are used. In this particular case, I have no excuse on my part. I would only request, as you said, that we are learning practices from this that we will implement in the future. Because of the transition of procurement from DoIT itself to the Department of General Services, as I've

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seen you do it yourself many times, sir, when there is a job to be done and no one is there to do it, you step up and do it. And unfortunately, in this case we didn't fulfill our responsibilities to report. So that's why we have aggregated all of these together today to make certain we are up to date and we will keep things up to date in the future.

COMPTROLLER FRANCHOT: Are there other contracts that we should be made aware of?

MR. LEAHY: There are no others that I am aware of at this time. But as I said, if we become aware of anything else, we will certainly bring it to your attention immediately.

COMPTROLLER FRANCHOT: I'm going to give you a medallion for candor. Thank you and just keep us informed.

MR. LEAHY: Thank you so much, sir.

GOVERNOR HOGAN: Thank you, Mr. Secretary. Is there a motion on the Secretary's Agenda?

COMPTROLLER FRANCHOT: I have one other.

GOVERNOR HOGAN: Okay, you get one more.

(Laughter.)

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COMPTROLLER FRANCHOT: So is Mr. Gleason available? Yes.

GOVERNOR HOGAN: He is.

COMPTROLLER FRANCHOT: If you could just come up and help me understand what your current policy is as far as these procurement officer determinations that are signed off by you and the agency.

MR. GLEASON: Thank you, Mr. Comptroller. Good morning.

COMPTROLLER FRANCHOT: And I guess what we're seeing is an absence of some of these sign-offs. And I just want to make sure you're aware of, you know, what you can share with us today about how the State's procurement officers are communicating with your office.

MR. GLEASON: Yes, sir. Thank you for the question, Mr. Comptroller. Governor, Madam Deputy Chief Treasurer, Comptroller, my name is Bob Gleason for the record, Chief Procurement Officer. We are in a transition, and to your question, we are reviewing procurement officer determinations as they come to us. If I could digress for just a minute to the previous question to Secretary Leahy.

A lot of these procurements, for example, were over a course of time over this entire period of time. And a lot of these that are coming forward now are

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a result of several of the conversations that we've had previously as we are flushing through the agencies and trying to bring these to the fore. Some of the quantities of these computers were the result of the last two-year period as we had the surge of different areas to do different mission objectives. So the quantities of the computers and so forth were brought forward in procurement orders or purchase orders as a result of the journey that we have taken over the past year and a half. We've looked at the pricing. We looked at the quantities. The determinations were made based on the availability of the computers and other items and services that were or were not available based on the market conditions that existed at the time.

As often happens with these determinations that we have reviewed, every other municipality, state, it was a dog fight with our colleagues, our friends in the other jurisdictions. And sometimes where we could find something, we had to get it at the moment, and we only had minutes, hours, or if we waited a day it would be gone and we would have to find another source. So we have been reviewing these and diligently, and frankly we are winding down on these emergencies and I'm hoping that this is going to be the last of these. But we are still beating the bushes.

We're also incorporating, to your question, in our training. We have a lengthy -- and by the way, thank you very much for participating with that. We actually have one of your employees in our next class, which starts in another week. So we have another class of 30. And by the end of this year, we should have all 250 or so procurement officers trained. So we are addressing it, we are just not quite there yet.

COMPTROLLER FRANCHOT: You should have a little sign that says do not skirt the State's procurement laws wherever possible. Thank you. Please keep us informed about it.

MR. GLEASON: Yes, Mr. Comptroller. And as a small token of the efforts that we're doing, I happen to have a lanyard that I would be pleased to provide to you. This is our eMMA. This is back to the technology tool. And we have incorporated eMMA in procurement officer determinations and reporting of emergencies into the tool. It is a work in progress, again. But I would be glad to share this with you.

COMPTROLLER FRANCHOT: Please. Thank you.

MR. GLEASON: You know, it's an effort at a change and change is not easy.

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GOVERNOR HOGAN: I feel like we're winning a gold medal.

(Laughter.)

MR. GLEASON: Well the State will win a medal if we can get the transition accomplished. And again, it's a journey that we are in progress. And I can assure you that we are -- I'm not sure that I would say that we're a juggernaut, as you said. But we are definitely focused on making these changes that will address the concerns of the Board.

COMPTROLLER FRANCHOT: Thank you, Mr. Secretary. And I would move approval of the --

GOVERNOR HOGAN: Thank you for, you know, I think we allocated \$1.2 billion additional to our schools throughout the pandemic to try to make some improvements to handle the COVID crisis and I want to thank you and your team for all of your efforts.

MR. GLEASON: Yes, sir. And it's a team effort. Thank you.

GOVERNOR HOGAN: Thank you. There is a motion --

MS. BENIK: Second.

GOVERNOR HOGAN: Second? Three-nothing on the Secretary's Agenda. We're going to move on to the DNR Real Property Agenda. Good morning, Madam Secretary.

MS. HADDAWAY-RICCIO: Good morning, Governor. Good morning, Madam Chief Deputy Treasurer and Mr. Comptroller. For the record, Jeannie Haddaway-Riccio, Secretary of the Maryland Department of Natural Resources. We have 12 items on our Real Property Agenda today for which we are seeking approval, and we would be happy to answer any questions at this time.

GOVERNOR HOGAN: Questions of the Secretary on DNR?

COMPTROLLER FRANCHOT: No.

MS. BENIK: Move approval.

GOVERNOR HOGAN: Is there a second?

COMPTROLLER FRANCHOT: Yes. Thank you.

GOVERNOR HOGAN: Three-nothing. Good job. We're going to move on to the University System Agenda.

MR. HICKEY: Good morning, Governor, Madam Chief Deputy Treasurer, Mr. Comptroller. Tom Hickey, representing University System of

Maryland. We have five items for your consideration and we're happy to answer any questions you may have.

GOVERNOR HOGAN: Good morning, Tom. Thank you. Any questions on the University System? Is there a motion?

COMPTROLLER FRANCHOT: Move approval if --

MS. BENIK: Second.

GOVERNOR HOGAN: Three-nothing on the University System. We're on a roll here. We're going to now move on to the Department of Transportation. And Secretary Slater, I know, I understand that you are going to give us an update this morning. The floor is yours.

MR. SLATER: Absolutely. Thank you, Governor. First, good morning Governor Hogan, Acting Treasurer Benik and Comptroller Franchot. For the record, my name is Greg Slater. I'm Secretary of the Maryland Department of Transportation. I think many of us can see that Marylanders are returning to our transportation system very quickly. The traffic volumes on the American Legion Bridge in the Capital Region for the first week in July actually exceeded pre-pandemic levels. And that's also true across our system. We were up on that day about three or four percent compared to 2019. Overall, we are just down about five

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percent across the State in traffic and the rest of the system is really seeing similar trends. Our BWI passenger traffic is still down about 25 percent, but that was at 95 percent down in the peak. Over at the Port of Baltimore, we're just down about four percent. So container volumes are continuing to rebound. We've had new markets come in. A lot of used car markets coming in now, those types of things, on exports. At MDTA we're just down about six percent now, where we were down 60 percent at the overall peak. Our traffic volumes at the Bay Bridge are actually around ten percent over what we had foreseen pre-pandemic. So we're starting to see some of those numbers really start to return. Over at MVA, we're actually seeing more customers today at the MVA than we were pre-pandemic. I think we're seeing about 30,000 customers a day, transactions a day. About 12,000 of those are in person, and the rest are online. Our online presence is really, really growing. Over at MTA, we're down overall about 60 percent, but that varies. The core bus system in Baltimore really has been around 50 percent, while the other systems, MARC Rail and those types of things, are down 95 percent. But we're starting to see a lot of those trends returning, which is good in terms of our system (indiscernible) be ready for that. I just wanted to give the Board an update on that,

and thank them for their continued support as we work towards this goal and this recovery.

GOVERNOR HOGAN: Well, thank you very much. Thank you and your team for all the hard work.

MR. SLATER: With all that being said, the Maryland Department of Transportation is presenting 14 items for your consideration today and we are here to answer any questions you may have.

GOVERNOR HOGAN: Any questions on Secretary's Slater's presentation?

MS. BENIK: Move approval.

COMPTROLLER FRANCHOT: No.

GOVERNOR HOGAN: She said move approval --

COMPTROLLER FRANCHOT: No, I was replying to your question. I just want to compliment the Governor. Because I don't know how Slater does it.

(Laughter.)

GOVERNOR HOGAN: I'm not sure how he does it either.

COMPTROLLER FRANCHOT: Somehow he wades into these controversial, you know, just hand to hand combat situations and comes out with something that makes progress. So I just want to salute you for having a terrific Transportation Secretary.

GOVERNOR HOGAN: Well, thank you for saying that. I think it's magic, but I'm not sure --

(Laughter.)

GOVERNOR HOGAN: -- he and his whole team.

MS. BENIK: Governor, let me add that Secretary Slater was great, you know, supplied information to us for the P3 review and his staff has worked really closely with us, which we really appreciate. Great job.

GOVERNOR HOGAN: Yeah, thank you. Wow, it's like a fan board situation here.

(Laughter.)

GOVERNOR HOGAN: -- Secretary Slater screw something up so

--

(Laughter.)

GOVERNOR HOGAN: So are there any questions on the Agenda other than praising the Secretary? Anything, we can all move on? Or is there a motion to approve?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second?

MS. BENIK: Second.

GOVERNOR HOGAN: Three to nothing on Transportation. Thank you very much. We're going to move on to -- you know, I don't know how you follow that up --

(Laughter.)

GOVERNOR HOGAN: -- General Services and I'm not sure --

(Laughter.)

GOVERNOR HOGAN: -- may have some concerns about your items. So good luck.

MR. CHURCHILL: Good morning, Governor, Acting Madam Treasurer, and Mr. Comptroller. For the record, I'm Ellington Churchill, Secretary for the Maryland Department of General Services. Today we are presenting 50 items on our Agenda and we are withdrawing Item 50 subitem 1.1 at this time. I

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would note that our Agenda features \$2,750,000 in capital grants and loans, and including \$425,000 for theaters and arts establishments across the State. We are also awarding contracts to nine small businesses and six minority business enterprises. And I do want to thank the Board for acknowledging the folks from COVID this morning. Two folks were proud General Services employees so I thank you for that. We have representatives from the YMCA, DMI, and (indiscernible) in the gallery as well attending their items. So thank you.

GOVERNOR HOGAN: Well, thank you very much. Are there questions on the DGS Agenda? Or is there --

MS. BENIK: Yes, I have a question on 41-IT, 1.4, which is the consulting and technical services CATS contract.

MR. CHURCHILL: Yes, Madam Treasurer. Again, we have Secretary Leahy in the gallery that will essentially address your question between us.

GOVERNOR HOGAN: You're on the hot seat today.

MR. LEAHY: Good morning, Governor, Madam Acting Treasurer, and Mr. Comptroller. I really enjoy being here and seeing you all, but I didn't know that I was going to be this busy this morning. So the question you asked about is

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the CATS+, Item 41, with regard to the delivery PMO contracts. What would you like to know?

MS. BENIK: Okay, thank you. So I understand in reading this that it appears that we're kind of doing a mini master contract under the master contract that is selecting, I think there's like 600 vendors that work on that master and then you narrowed it down to this. What my concern is, and what I'd like to have you address is, is that in looking at this, I noticed that we have seven vendors that were selected here and that we have, for example, we have three of the vendors can serve in category one, two of them can serve in category three, and then three of them can serve in either category. So we have limited people. And my concern is it just seems that for a statewide contract that this is not very much competition. And I'm concerned about the fact that there are a lot of IT companies out there. So I'm a little worried why from a statewide perspective, to serve the whole State and just to be competitive, that we don't have more people. I worry, and these are my concerns as you address them, is I don't know how large the companies are. However, in a particular case such as category two, if the first entity couldn't have enough people, it really defaults through no competition to the second person. And my concern then is, if that person doesn't have it, you have no one on your list and then what

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happens. So I just really have a major concern about having a statewide contract. I'm not so much, I'm not quite sure I would agree that I would have done a mini master off a master. But I'm not --

MR. LEAHY: Yes.

MS. BENIK: -- that's the decision you made. That's fine. I have no problem with that. I just really would like you to address my concerns about competitiveness, having more companies across the entire State for these types of services.

MR. LEAHY: Certainly. I'm going to try to make a very complex answer simple. Let me start with an analogy. As you said, there are many IT companies in Maryland. There are many doctors, but I would not go to a podiatrist for a brain tumor, okay? There are many kinds of lawyers. I wouldn't go to an administrative law regulator who writes regulations if I was in a murder trial. The same sort of circumstance exists here. Although we say these are IT companies, each of these companies has already demonstrated a specific talent, and the three that we focused on in this procurement were actually running programs and projects, so project management, technical writing, and then business analysis. And if you look at the history of how State contracts for IT procurements have operated historically, the vendors have provided the project management themselves that were doing the work. And to the Comptroller's point, we're attempting to create checks and balances so there is transparency. We want someone who is independent be able to hold the vendor and their feet to the fire. So we want to have less projects that run over budget or run over time.

So to the competition question, we had a perfectly normal RFP and the folks who do have an expertise in this that sat on the panels found that these companies to be particularly well versed and accredited for doing this kind of work.

To your concern, if indeed based on the needs that we see likely, we are not meeting these needs, we would want to expand these candidates, absolutely. But based on what I have been told, both from the contracts we've had here in the past and from talking to CIOs in other states that have set up similar processes, this would meet our needs. And so I didn't want to overexpand. But to your point, if indeed we are not meeting the competition concerns because people are defaulting or drop out, I would want to recompete and expand both of those.

MS. BENIK: Thank you for that. And then just a follow up to that. When you went out to the master contract looking for people, were these the only seven people who responded? Like how many people actually responded --

MR. LEAHY: No, as I understand it there were 18 respondents.

MS. BENIK: There were 18 responses that you then narrowed down?

MR. LEAHY: Yes. And most of them, as you said, were general IT. They did not have specific expertise in project management. And some of them are vendors we do other work with and didn't want to create potential conflicts of interest because of the technical work that they are already doing with the State.

MS. BENIK: Okay. And then understanding that, had you made the decision not to do, not to pick from those categories and potentially go out and do another master contract for these particular services, what is your feeling on the availability of if you had done that, the number of when I say qualified, meaning qualified that people had these particular skill sets that would have responded? Do you believe that it would have been more than the seven? Or do you think there's just seven that would have done it?

MR. LEAHY: I honestly don't know because I was not part of the review process. I would expect that if it was more broadly advertised and we did not voice our concerns about competition, there may have been more people that indeed did compete for this. But as I said, of the 18 we had, it represented a diverse group of IT skills and we found these seven to be the most qualified. We had not set a particular number. At first, in fact originally, I said I wanted ten. And it just turned out that these seven actually had the qualifications and the other nine, or 11 rather, fell below that line.

MS. BENIK: Actually it was 18 out of that 600 responded. Thank you.

MR. LEAHY: Thank you so much.

GOVERNOR HOGAN: Thank you very much. Any other questions on DGS?

COMPTROLLER FRANCHOT: Yeah, no, I'm inclined to vote against this because every time I see an item like this it just does not feel right. This is a \$100 million contract that's going to go on for a number of years. And just to your analogy about if I had a brain tumor, I would go looking for a brain surgeon. Well, yeah, but I'd like to look at more than two.

MR. LEAHY: Sure. Well, I certainly understand --

COMPTROLLER FRANCHOT: And if I were, had a legal problem, I'd like to be not restricted to three lawyers. I'd like to be able to shop whatever the specifics are at the time it occurs. Because this is a two, it's a three-year contract including two one-year renewal options. So that's, you know, that's quite a period of time. And I just don't feel comfortable, because it's a large sum of money, and it's in essence, as exactly the Treasurer was saying, it's a task order within a task order. And so I guess the question I have is how are you going to assure that there is robust competition --

MR. LEAHY: Certainly.

COMPTROLLER FRANCHOT: -- so the taxpayers get the best deal?

MR. LEAHY: Certainly. Well, I will start by saying, I'm sorry we have not made it clear to you why we believe this will enhance the existing competition. As I said, one of the principal reasons to do this is to create the checks

and balances in how current projects operate. As you know very well, because we have talked about it on occasion, there are many times that projects have cost overruns and time overruns and it is because the project management is done within the project vendor. And so we found this as a way to minimize that likelihood of things overrunning the budget or the time. And we made a conscious decision, because everything else we've tried in the four years I've been here to remove those concerns has not worked. As you may know, we've been working on this for almost two years. It came to the Board before in March and was sent back because of questions. And I believed we had answered those questions. But I would request that you reconsider because I think this is better than what we've had. And indeed, we are not able to move forward with any of our projects right now that need project management because we don't have a vehicle. And I would be more than happy to talk about an amendment to increase competition in the future. But the breadth of our concerns about doing the work necessary to serve the citizens, this has reached a critical point for my department and, as I said, I certainly understand your concerns. But I think if you look at what has happened across the country, this aligns with best practices in terms of managing IT projects and it also gives us the capacity to determine over time what the actual need will be. Based on the number of projects we've had in the past, creating a master contract that then takes us the

additional time to fulfill these needs at this point just didn't seem warranted. But I certainly defer to your concerns and we'll do better.

COMPTROLLER FRANCHOT: What are the amendments you referred that could be brought --

MR. LEAHY: Well, if there was a concern that there was not enough competition, we would reopen this matter and recompetite it for the specific tools we need. As we said, we had 18 people who applied last time because this is a rather specialized area of operations. Project management is not a big money maker for most of these folks because it creates the oversight requirement. Additionally, it will reduce the need to go back and forth to the vendors from IB&B. Because if we have someone that vetted the project, they will be already addressing those questions. And we're already paying for project management in these projects. So yes, it is a lot of money. But if it brings us to the point where we actually hold vendors to what they contracted for in the first place, it will save us a lot of money too.

COMPTROLLER FRANCHOT: Are these coming back before the Board, these task orders --

MR. LEAHY: I would expect they would, if they were over \$200,000, yes sir.

COMPTROLLER FRANCHOT: (Indiscernible).

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GOVERNOR HOGAN: It seems to me that after a two-year process and having already deferred this once, and the fact that we've got so many major projects that have come to a screeching halt, to start over when you've got 18 people competing and you narrow it down to seven and it's going to save us money, it's kind of a no-brainer to me. But do you have any other questions of the Secretary?

COMPTROLLER FRANCHOT: Well, if I could get a confirmation that you will bring these back before the Board --

MR. LEAHY: I will be happy to, Mr. Comptroller.

COMPTROLLER FRANCHOT: Madam Deputy Treasurer?

MS. BENIK: I appreciate the explanation and running a major, as the Secretary knows, a major IT project in the Treasury myself, I totally agree with his position and what he wants to do because I do think taking that outside project management and doing it is a very good idea. And we have an outside person from DoIT who is very good. But I still come back to my concern about the number of people and the competition. That really is my only issue. Not in what you're doing because I think that's the right way to go, having watched this. But I still have a competition issue. But that was, but I understand where you are. And as long as you are willing to look at that and open that back up and look at some more people to come back in and bring that back to the Board, I appreciate that.

MR. LEAHY: Absolutely. Thank you so much.

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GOVERNOR HOGAN: Very good. Are there any other questions on the DGS Agenda?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second?

MS. BENIK: Second.

GOVERNOR HOGAN: Three to nothing. Thank you very much.

That concludes the Board of Public Works.

(Whereupon, at 11:03 a.m., the meeting was concluded.)