
STATE OF MARYLAND
BOARD OF PUBLIC WORKS
ANNAPOLIS, MARYLAND

February 16, 2022
10:05 a.m.

PRESENT

HONORABLE BOYD RUTHERFORD

Lieutenant Governor

HONORABLE DERECK DAVIS

Treasurer

HONORABLE PETER FRANCHOT

Comptroller

JOHN GONTRUM

Secretary, Board of Public Works

ELLINGTON CHURCHILL

Secretary, Department of General Services

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PROCEEDINGS

LIEUTENANT GOVERNOR RUTHERFORD: We're here once again for the Board of Public Works. And it is always great to be here with the Comptroller, and this is my first time sitting side by side with Treasurer Davis. Congratulations or condolences, whichever one it is.

(Laughter.)

TREASURER DAVIS: I'll get back to you on that.

COMPTROLLER FRANCHOT: Yeah.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: I guess it's, you know, the Comptroller probably can speak to this as well. It's probably always good to move away from the Legislature to another important position. So maybe it is congratulations. And it's good to be here in the State House. We're doing a hybrid. We have some people who are going to testify I believe virtually and we have some of our administration officials that are going to come in virtually.

With that said, we are seeing the omicron variant receding in Maryland. Our seven-day positivity rate has fallen below four percent, and as of yesterday we had less than 700 individuals in the hospital associated with omicron. We have done some, you know, additional diving and it has been somewhat limited on this in terms of how many people are actually in the hospitals that are there because of omicron, or show up and happen to have omicron. They are there for other reasons, they are giving birth, and they have,

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and we found in some, and it's not statistically proven, that about 20 percent of the people are coming in for other reasons and have omicron. And there's about 60 percent that it's directly omicron, and then maybe another 20 percent or a little less than that that omicron, not omicron, I should say COVID generally, has complicated an underlying condition. So they have another condition, they are coming in for that, but it's because they have COVID that it has led to more complications. So somewhere close to 80 percent are COVID direct or COVID related, and then the remainder are coming in for other reasons.

I spoke to the President at Holy Cross in Montgomery County and he mentioned a large percentage of their maternity ward is people who came in to give birth and happened to have COVID. So that is something we are working through as we, you know, continue in this process. But we are seeing some significant improvement. I mentioned below 700 in the hospitals. That number just ten days earlier was over 1,000 and in late January it was over 2,000 individuals. So we're feeling pleased that we're moving in the right direction.

More than five million Marylanders have received at least one dose of the vaccine. We are encouraging people to get the vaccine, to go through the full process. If it's the Pfizer or the Moderna, to get the two-shot regimen, Johnson & Johnson, get the one. And if you are eligible, to get the booster. Please get that booster shot. One of the questions that I had and I'm going to, you know, take the privilege of having a microphone, is that some of us are approaching one year of getting our original shot routine. And I think for myself and the Governor, it will be in March. And some of our healthcare workers it was in January, some of the senior facilities, it was December. We may be getting to a

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point, and I had some conversations with some of our health professionals, to the point where we will be looking at an annual, you know, vaccine and not every couple of month vaccine. But that's, I'm an optimist, I hope, that's my goal.

So we encourage people to get those vaccines. We encourage you to continue to participate in safe practices. Wash your hands, that's one of them that you were taught as a small child. And so we look forward to getting to a sense of normalcy while we have this little reprieve from winter. We have 50-degree temperatures today. But it is winter, so it's going to be cold again. And with that, I'll turn it over to the Comptroller for any comments.

COMPTROLLER FRANCHOT: Thank you very much, Lieutenant Governor. And Treasurer Davis, welcome.

TREASURER DAVIS: Thank you, sir.

COMPTROLLER FRANCHOT: Life is good after the Legislature.
(Laughter.)

COMPTROLLER FRANCHOT: I'm delighted that you are here and, Lieutenant Governor, I just want to salute you again. Because you have always been a voice of reason and rational, functional behavior. And I --

LIEUTENANT GOVERNOR RUTHERFORD: That's not what my wife says.

COMPTROLLER FRANCHOT: Well --
(Laughter.)

COMPTROLLER FRANCHOT: I do want to recognize Pam Wood, who is one of the best reporters in the State. Today is her last day at the *Baltimore Sun* and she is moving on to new endeavors --

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LIEUTENANT GOVERNOR RUTHERFORD: I did hear that.

COMPTROLLER FRANCHOT: -- and I wish her the best. She has taken my head off more than not, in many, many articles over the years. But she is a wonderful professional and just a terrific person. And you know, I salute her on her last day.

But if I could take just a few minutes to highlight an issue that is personally important to me, and an issue that our agency has been at the forefront in recent years. Last week, I was reading the *Baltimore Sun*, as I do every day, and read Dan Rodricks' column, another sharp-tongued commentator up there. But what was he talking about? He was talking about the growing and alarming epidemic of elder fraud. He followed up that column yesterday, providing more details about the incident he was using to talk about the epidemic of elder fraud. I encourage everyone to read both of them.

We are all familiar with the serious nationwide problem of fraud and identity theft in general, and certainly we are seeing fraud on the rise, especially in the last two years, during the pandemic with respect to the COVID relief and unemployment benefits. We're talking about billions of taxpayer dollars going to fraudsters, sadly. But we don't often hear about the heartless financial schemes that criminals engage in by targeting our elderly and our most vulnerable.

Mr. Rodricks says in his column that, "there is a special place in hell," for those that engage in this type of criminal behavior. I couldn't agree with him more. He tells the story of an 87-year-old Maryland woman who was targeted by one of these fraudulent schemes. The financial criminal produced a

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fake check with the woman's accurate bank account information and deposited the check to a bank in New York City. \$175,000, her entire wealth, was withdrawn from her bank account and deposited into the criminal's account, the vast majority of her life savings, swooped away in an instant. Mr. Rodricks somehow got hold of a copy of the fraudulent check and upon inspection there were red flags that the banks didn't notice. To target the elderly, among our most vulnerable population, and scare and trick them into these schemes is just despicable. And it's on the rise.

My own mother, who passed away, rest in peace, she was plagued by these people, saying you have to send us money. You know, you owe us money. And it's on the rise. But never for \$175,000. It's on the rise. The FBI estimates that in 2021, 24,000 elderly victims lost over \$1 billion to elder fraud schemes. Think about that. 24,000 of our nation's elderly lost \$1 billion of their hard-earned, precious pensions, retirement and savings, and the vast majority of them are on fixed and limited income.

I'm proud of the efforts of State government and nonprofits like the AARP of Maryland have undertaken. But more can be done and needs to be done to combat elder fraud, and frankly all types of fraud. These financial crimes and schemes will only grow more brazen. All of the ones that used to come and attack the Maryland Treasury through the data that we have as the tax administrator, it used to be all over the place, they have disappeared, all gone over to these other areas where they can make more money. Highly sophisticated, complex cybercrimes.

That's why I believe that the State of Maryland needs what I call a

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center for fraud detection, a first of its kind in the nation. This would be a State agency whose sole mission is to identify, prevent, and root out all forms of fraud, preventing criminals from robbing our State Treasury and our national Treasury, by targeting our hardworking families and capturing their hard-earned money. I hope this is something that can be looked at and implemented because it's critically important for the State's financial health and that of our residents. And I just want to say, today I will be speaking to the CEOs of the two major multibillion dollar international banks that cashed this obviously fraudulent \$175,000 check. So I hope that those banks are responsive and do the right thing and reimburse that 87-year-old woman. Thank you, Governor.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you. I have heard of that before and typically the banks, or a gentleman I won't identify, told me the very same thing happened to his mother. That there was a check that looked just like his, it was basically in the days when we got cancelled checks. The person had, was able to, you know, changed who the check went to and redeposit it in a different bank and did the same thing. And they were able to get that resolved. But --

COMPTROLLER FRANCHOT: Do you want to join, I'm going to join in the call with the Lieutenant Governor. That will really get some attention.

LIEUTENANT GOVERNOR RUTHERFORD: -- very similar.

COMPTROLLER FRANCHOT: And you know, this check wasn't even that. It was made out to some Chinese technology company for home improvements. So it's probably over in Beijing somewhere right now.

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LIEUTENANT GOVERNOR RUTHERFORD: Could very well --

COMPTROLLER FRANCHOT: I'm sad to say. But I think the banks who are, have tens of billions of dollars of, you know, well-earned profit can certainly find something in their insurance --

LIEUTENANT GOVERNOR RUTHERFORD: They probably have --

COMPTROLLER FRANCHOT: -- or whatever thing to fix this problem and this woman lives in, I believe in Carroll County. So that would be the right thing to do. Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Mr. Treasurer?

TREASURER DAVIS: Thank you, sir. And good morning, everyone.

I know this is not my first meeting, but this is my first meeting in your presence. So this holds a special moment for me as well. Just sort of looking around, it reminds me a lot of my past or my former career, it's just that I'm not sitting in this chair this time. So --

(Laughter.)

TREASURER DAVIS: -- that's certainly --

(Laughter.)

TREASURER DAVIS: -- to be responsible for keeping things moving smoothly.

It struck me just the breadth and depth of the issues. I mean, I knew it. You know, I knew what the Board of Public Works did. But it's a lot different when you are actually in the seat and the issues are coming up just wide

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ranging. So it certainly has been an eye opening experience for me and I'm learning more and more about State government and all that goes on. And so I certainly salute the Governor and the Comptroller for their work over the years on these issues.

For me, as I've been studying just a lot of the different contract procurements and things that have been going on, one of the things that, you know, a lot of folks have been asking me, well, what are you interested in? Or what are you going to focus in on? And I guess I harken back to my days in the Legislature and specifically as a member of the Legislative Black Caucus of Maryland. One of the big things for us obviously has been the MBE program, the Minority Business Enterprise Program. And so one of the things I'm going to focus on is that goal, the 29 percent statewide goal. And I want to look at it in the vein of ensuring that we're doing everything possible to meet that goal, both from an agency standpoint as well as the State vendors.

I saw the GOSMWBA Report, the FY 2020 Annual Report, and it said the statewide participation rate was only 14 percent. And so that concerned me. I get that it's a goal, but it is literally half of what we set out. So I, you know, I want to, and to make matters worse, a lot of folks were not submitting the required data. In my conversations and my office's conversations, that information wasn't even being supplied in some cases. So that's sort of going to be one of my focus. It won't just be limited to that, because there are a number of issues that I have been entrusted to pursue and (indiscernible). But that sort of will be my focus. So if I start sounding redundant, or, well, here he goes again, you know, I'm, please understand there is a segment of our population who this is

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very important to. And it's our responsibility to ensure that those voices are heard. Just as my colleagues, it's not to infer anything else, but just from my perspective, my role, that's one of the things for starters that I will be focusing in on and hopefully that will continue to evolve.

So you have heard enough from me right now and if --

COMPTROLLER FRANCHOT: Could I just add that if he's young enough to be patient and wait a couple of years, I could see him in the middle chair. Thank you. And I share your concern for the accountability of the MBE program. Well put.

LIEUTENANT GOVERNOR RUTHERFORD: Yes (indiscernible) to push, and we push all of the agencies, not just the MBE, but more so the Small Business Reserve Program. Because that is a prime contractor program. And as a prime contractor, you get paid first. You don't have to wait to be paid. And in many cases, the Small Business Reserve Program are contracts that are at the size or larger than many of the MBE contracts that are awarded through our regular procurement.

So with that, I could continue to go on the fraud aspect. Because we got home on Friday, my wife and I, and there was a message on our voice mail from someone asking for my wife's name, but under a previous last name that she hasn't had for 35 years because we have been married almost 35 years. And left a number, from a Lieutenant Mark Johnson. We called back the number. And it came back with a recording saying this is the Howard County Sheriff's Office. I think it said Sheriff's Department. Now, a note for people, Sheriffs say Sheriff's Office, they don't say Sheriff's Department. And if you call into a Sheriff's

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Office and say, are you the Sheriff's Department, they might throw you out.

Because --

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: -- Office. So they said Sheriff's Department, and that was the first clue something is not right. You know, dial 911 if it's an emergency, but otherwise enter the extension. We entered an extension and this Lieutenant Johnson answers. And my wife is on the phone and so he is saying, are you, and he said the name, and she said, well that's a name I used to have but for 35 years that is no longer my name. And he said, well, there is a bench warrant out or a contempt order out because you didn't show up for jury duty in January. She was like, well, I never got a notice. Well, that doesn't matter. You know, if you don't get this resolved by midnight tonight, we're going to issue a warrant for your arrest. So she is getting nervous. I get on the phone. And I said, well, that's not legally her name so it's a mistake. And he said, well we don't care about the mistake. And I said, okay, how do you resolve this? He said, you're going to have to go the Sheriff's Office and post a bond. That was the second thing. Bond means money. So I said, okay. We're going to the Sheriff's Office. We'll be there in an hour. And it was like he stopped for a moment. And then he said, okay, okay. And two minutes later after hanging up the phone, he calls back and says, well, we see that there is a mistake that the court did. But just let me know before you are headed to the Sheriff's Office and I'll make sure the paperwork is all okay to take care of it and we can get this resolved real quick. I said, okay fine, bye. In between, we saw that the telephone number is not the Sheriff's number because we looked that up. And of course,

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being Lieutenant Governor, I called Executive Protection.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: They are looking and came back and said there is no person in the Sheriff's Office with that name. But I expect that if we had called a second time, he then would have said, well, you don't have to come down. Just give me your credit card number or your bank account number or something of that nature. So I did talk to also the State's Attorney.

COMPTROLLER FRANCHOT: I get those calls all the time. And it's generally you are, you haven't paid your taxes.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: It's like another --

COMPTROLLER FRANCHOT: I'm telling you, these professionals are very persuasive. And they sound, not so much with you, but with me they have, you know --

LIEUTENANT GOVERNOR RUTHERFORD: And they stay in character. You know, they really go all the way through. So you know, imagine, like you said, you hit a person who in many cases they do go after the elderly, who are thinking, and they have been living a clean life all their lives. And they are thinking, oh, well maybe I missed something. Maybe I missed that letter. Maybe I did this. Okay. How can I resolve that? Here is my bank account number, or here's, so. Okay. Mr. Secretary? Secretary's Agenda?

SECRETARY GONTRUM: Good morning, Governor, Mr. Comptroller, Mr. Treasurer. We have 17 items on the Secretary's Agenda this

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morning with 25 reports of emergency procurements. I am withdrawing Item 6 to provide the Wetlands Administrator and the Department of the Environment more time to assess what we received in opposition to the granting of the license after it was published on this morning's Agenda. I'm withdrawing Item 13 at the request of the Maryland Environmental Service, and I'm withdrawing Item A2 because this report was already accepted by the Board at the January 26th meeting and was inadvertently resubmitted by the department for the Board's consideration today.

I would like to note for the Board Item 3, which is compensation to Mr. Bernard Webster, an individual who was erroneously incarcerated. The Board previously granted compensation to Mr. Webster in 2003. This is supplemental compensation to Mr. Webster. If you recall, a law was passed last year providing supplemental compensation to the five individuals who received erroneous incarceration compensation prior to 2005. I'm happy to assist with answering any questions.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. That's very good on Item 3. I do have a question on Item 8, the Rental Housing Production Program. It's just somewhat confusing in terms of this project. Do we have anyone from Housing and Community Development?

SECRETARY GONTRUM: We do. We have Deputy Secretary Owen McEvoy. One moment, Governor, while I get Mr. McEvoy connected to the meeting. Deputy Secretary --

MR. MCEVOY: Mr. Governor?

LIEUTENANT GOVERNOR RUTHERFORD: Good morning.

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MR. MCEVOY: Good morning, Lieutenant Governor, Treasurer, Comptroller, for the record, I'm Owen McEvoy, Deputy Secretary of the Department of Housing and Community Development. I'm happy to answer any questions.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. I'm a little confused by this item. What is the status of the borrower, Reservoir Hill Limited Partnership XI?

MR. MCEVOY: Sure. I've also got on the line John MacLean, who is actually our asset manager on this particular project. But I'm happy to answer some very high level questions. The department in 1999 loaned the borrower money from the Rental Housing Production Program to buy 29 properties. We recently did an assessment. Of the 29, 24 remain. Obviously the developer did some work, either combining units or eliminating them. Of the 24 remaining units, 19 are still occupied and five are or are in the process of being taken by the City as part of the State's partnership with Project C.O.R.E. That's kind of the high level status of both the loan and the redevelopment.

LIEUTENANT GOVERNOR RUTHERFORD: Well, I mean, in terms of the loan it says that it was \$950,000 back in the nineties that was loaned and they owe, you know, \$1 million now. Is that all interest? Have they paid principal? When I ask status, I wonder if this limited partnership is still in existence. And now --

MR. MCEVOY: It's my understanding that the partnership is still in existence. It is still managing the property. We are in regular contact with the property manager. And in terms of the loan being more than initially was issued,

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that is probably an example of deferments and interest that we allowed to go as certain things came up. Is John on the phone? John can probably address why the loan has ballooned. John MacLean?

MR. MACLEAN: Yes, can you hear me?

LIEUTENANT GOVERNOR RUTHERFORD: Yes.

MR. MACLEAN: Yes. Good morning. For the record, my name is John MacLean. I'm with the Department of Housing and Community Development. I'm the Director of Multifamily Asset Management. Lieutenant Governor, Mr. Comptroller, Mr. Treasurer, it's a pleasure to talk to you.

To address the one question that you raised, yes indeed, the reason that the current balance of the loan exceeds the original amount is because of the amount of interest that has accrued, which is unfortunately not unusual in many situations of this type. The partnership remains intact, although one of the partners did pass away within the last year. His surviving partner, however, has taken on the primary management and operational role. The, as Owen pointed out, the vast majority of the units remain occupied. We last inspected the property just prior to the onset of the pandemic and it received a satisfactory rating. They have every intention of continuing to repay the loan. The proceeds from the taking of this property, meager as they may be, will be used to reduce the loan amount. And they made a rather small, but nevertheless did make a surplus cash payment in 2020, which is a sign that the property is, you know, at least in the black.

LIEUTENANT GOVERNOR RUTHERFORD: Twenty-two years ago they made a payment?

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MR. MACLEAN: No, no --

MR. MCEVOY: Two years ago.

LIEUTENANT GOVERNOR RUTHERFORD: Two years ago.

Two years ago. Okay. Excuse me. I thought it was 20.

MR. MACLEAN: Yes, two years ago. I apologize --

LIEUTENANT GOVERNOR RUTHERFORD: Two years ago.

No, it was my mistake. So they made a payment once in, or at least most recently two years ago. I think we would have been evicted if we had done that.

MR. MACLEAN: Well --

LIEUTENANT GOVERNOR RUTHERFORD: I guess I just don't understand that this has gone on for so long and now the City is taking over properties, and if it's part of Project C.O.R.E. they are probably going to be tearing down these properties, that we are getting \$9,000 per property, they are taking three additional. So you know, but it just doesn't, it doesn't seem like it really works out that well. Am I the only one who is concerned about -- how is this funded? Where does the \$950,000 come from? Where did it come from?

MR. MACLEAN: Yes, this loan was funded through the department's Rental Housing Production Program.

LIEUTENANT GOVERNOR RUTHERFORD: And that money comes from?

MR. MACLEAN: It's not bond financed. It comes from the State coffers, clearly.

LIEUTENANT GOVERNOR RUTHERFORD: So it is general fund money?

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MR. MACLEAN: That's my understanding, yes.

LIEUTENANT GOVERNOR RUTHERFORD: Does it start with the federal government or it just comes through the Maryland --

MR. MACLEAN: No. No. It emanates from the State originally, yes.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. All right. Well, I just really --

COMPTROLLER FRANCHOT: Let me just say, I was in Baltimore the day before yesterday speaking to a ministers conference. Driving down I think it was North Monroe Street --

LIEUTENANT GOVERNOR RUTHERFORD: Yes, Monroe is --

COMPTROLLER FRANCHOT: -- it's just unbelievable that this is one of the great cities in the country.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

COMPTROLLER FRANCHOT: And a shining light for the State of Maryland. We can't be a great State without a great City. But the condition of the houses, if any of these are included here. I'm happy to take a look at this, if you are concerned about the overall issue. Because --

LIEUTENANT GOVERNOR RUTHERFORD: Yes.

COMPTROLLER FRANCHOT: -- it really shocked me.

LIEUTENANT GOVERNOR RUTHERFORD: I mean, I know that, this is really the reimbursement under the eminent domain ability of the City to take this one property, but I understand they have plans to take three more, at \$9,000 each and you are going to apply it to the loan. But I just think that there is

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a real problem here and it started before, you know, probably before you were on board, that we have loaned taxpayer dollars to this group and in over 20 years they have not done much on that, on these particular properties. And I'm quite sure they took a developer agreement, or a developer fee out of it, somewhere along the line. So they have been paid. And they made a payment two years ago. So I'm not going to reject this. I just think we need to really look into this further, just the whole program --

COMPTROLLER FRANCHOT: -- speak for the Treasurer, but I'm happy to defer it.

LIEUTENANT GOVERNOR RUTHERFORD: Yes, let's wait a week. That's the only real hammer we have to get, to be able to delve into this. So I'm going to ask that we withdraw this item, Item 8. Do we have a motion?

COMPTROLLER FRANCHOT: I would so move.

TREASURER DAVIS: Second.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Because it's just confusing. So if the, Owen or Mr. MacLean, if you could get back to us -
-

MR. MACLEAN: Sure.

MR. MCEVOY: -- Lieutenant Governor, we're happy to do that. We'll do a more thorough analysis regarding how many loan payments have been made, a deeper dive into the condition of the partnership. And I can provide a briefing to you and --

LIEUTENANT GOVERNOR RUTHERFORD: Yes. And I can --

MR. MCEVOY: -- everybody at the next meeting, if that's

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sufficient.

LIEUTENANT GOVERNOR RUTHERFORD: Yes, maybe I'll take a drive up to the 1200 block of Mosher. Is that near the, it's the elementary school up there where the little league team plays on Mosher. I know it's in West Baltimore, but I don't know if it's the same area. So I'll have to take a look. But thank you.

COMPTROLLER FRANCHOT: Thank you.

MR. MCEVOY: Not a problem.

MR. MACLEAN: Absolutely. Thank you.

COMPTROLLER FRANCHOT: Can I --

LIEUTENANT GOVERNOR RUTHERFORD: Yes.

COMPTROLLER FRANCHOT: -- bring up Item 3? I know you mentioned it already (indiscernible) for the item awarding an additional \$806,000 to Mr. Bernard Webster for his erroneous conviction and subsequent incarceration. And we have all said it before but I'll say it again: this compensation cannot make up for the years that Mr. Webster spent behind bars separated from his family, friends, loved ones. Years that could have been spent pursuing his hopes and dreams and living his life freely. Like all Marylanders who have been imprisoned wrongfully, Mr. Webster is a victim of a broken criminal justice system. And although no dollar amount can restore what was stolen from him, I hope that today's actions to award him additional compensation bring some solace and a sense of vindication from the great State of Maryland. And Lieutenant Governor, I want to associate myself with your remarks, also.

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LIEUTENANT GOVERNOR RUTHERFORD: Thank you. Yes, it's, we are pleased that we are able to address what was, as you said, an injustice that was done several years ago. Thank you. Any additional questions on the Agenda?

COMPTROLLER FRANCHOT: I have Items A18 through 23. It's emergency reports from the Department of Health.

LIEUTENANT GOVERNOR RUTHERFORD: Yes. Yes.

COMPTROLLER FRANCHOT: I'm not sure whether --

LIEUTENANT GOVERNOR RUTHERFORD: Yes --

COMPTROLLER FRANCHOT: -- Secretary Schrader --

LIEUTENANT GOVERNOR RUTHERFORD: -- Secretary Schrader is here.

COMPTROLLER FRANCHOT: Oh, excellent.

MR. SCHRADER: Good morning, Governor, Comptroller, Treasurer. For the record, Dennis Schrader --

COMPTROLLER FRANCHOT: I just saw the Deputy Secretary over there, so I didn't see you, Mr. Secretary. Thank you.

MR. SCHRADER: He is very capable, but I thought today it would be appropriate for me to be here.

COMPTROLLER FRANCHOT: Okay. Thank you for identifying yourself. This contract, as you know, is purchasing rapid over the counter COVID-19 tests for distribution to Marylanders. The cumulative value of the six contracts that I am looking at right now before us approximately \$66 million. I appreciate the department's recent planning efforts to ensure that Marylanders are

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able to easily and consistently access at home tests. I did have a few questions about all the procurements together.

Obviously this procurement was absolutely critical to ensure the safety and well-being of our residents, particularly in light of the omicron variant. However, according to my notes the department didn't purchase the 8.5 million tests until mid to late January. And Secretary Schrader, I know that the department has had a lot of pressure on it, and you've got a huge number of consultants to assist the State with our COVID responses, including supply chain management. We have known for weeks, if not months, that this highly contagious variant would eventually be reported in Maryland. So how did we find ourselves in a situation where after spending hundreds of millions of dollars on other emergency consulting contracts for COVID response, people frankly a month ago were unable to obtain rapid tests and had to stand in line for hours to be tested? What guidance did MDH or you personally receive from our consultants on when and how to purchase these tests?

MR. SCHRADER: Thank you, Mr. Comptroller. And I appreciate the opportunity to come before you today and discuss where we are heading. I think last summer, the perception was that the pandemic was over and we in the Health Department were very adamant that that was not the case. Unfortunately, it has been borne out in recent events.

Last summer, the five waves, or the four waves that we had experienced showed us that the growth of the waves was generally slow to grow, flatter, and then dropped. In the fall, we experienced a delta wave which went up again, slowly dropping, and then before it actually finished omicron took off and

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omicron was a V-shaped which was double the peak a year ago. A year ago the peak was 1952 and this peak was 3462, this most recent peak.

So what we did last summer when many states and the federal government had said this is pretty much over so they did not have point of care tests, we continued our relationship with Abbott and bought as many as we could. Of course, the supply was not very plentiful and we through the summer and fall were trying to buy more tests. When the omicron variant hit, we were positioned to buy more because we had been working on it and it was very fortunate that we got them. But quite frankly, the national supply through the fall, because of the perception that last summer that the pandemic was over, a lot of people had let their guard down. We did not do that.

But I will admit, this variant is very, or this particular virus is very unpredictable. And we expect we're going to see more waves. The only problem is I can't tell you when, what the variant will be, or how big it's going to be. And we're hoping that, because this, the big difference with omicron was the transmissibility, which spread very rapidly and created this V shape effect. So I would say that we had been buying over the counter point of care tests, but not enough. And then when this hit, we reacted very quickly and we were ahead of the curve. A lot of the country is having a hard -- for example, I have ordered online my four federal tests. I still have yet to receive them. And I did that three weeks ago.

COMPTROLLER FRANCHOT: -- mine --

MR. SCHRADER: I mean, just as an example.

COMPTROLLER FRANCHOT: -- my wife --

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MR. SCHRADER: But anyway, I don't know if that answers your question, Mr. Comptroller.

COMPTROLLER FRANCHOT: No, I guess the question is just on the procurement issue, not on a, you know, subject matter issue. How many of these tests have been distributed, the ones that we are talking about --

MR. SCHRADER: Right.

COMPTROLLER FRANCHOT: -- these contracts, how many have been distributed to Marylanders?

MR. SCHRADER: So right now we have distributed 2.1 million. What we are doing now is planning for the year. Our planning horizon right now is the end of 2022 and then through January, because we don't want to, we want to extend our horizon long enough to anticipate. Because we know schools are going to open in September again. We're going to have another holiday period around Thanksgiving and the other holidays. And you know, we've got spring break coming, the summer. So we're laying out a long term horizon. And our contracts that we are bringing forward are designed to think through that.

So specifically on this, we are expecting that for our priorities, you know, which is the nursing homes and schools, the judiciary, community spread, we are expecting to need a couple million tests a month. The expiration dates on these tests are somewhere between four months and six months. So we're buying just enough so that we can use them every month, month over month, but then not have too many so that they end up going to waste. So we are in that process now. We have ordered 8.5 million. We have received 4.3 million, and we have used 2.1 million. So testing and vaccines, particularly boosters, are going to be a dual

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prong of our strategy going forward as we try to get into a steady state of living with this virus.

COMPTROLLER FRANCHOT: That makes lots of sense. And if you could just share with the Board members, I assume you have some plan in place as to how to distribute --

MR. SCHRADER: Yes, we do.

COMPTROLLER FRANCHOT: -- the different entities. But if you could share with us what the plan is that you have at MDH, that would be great.

MR. SCHRADER: We do have that, sir. We'll make sure we share that with you.

COMPTROLLER FRANCHOT: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: I can just add to what the secretary said. And just, you know, one element of the distribution over the last several weeks, I have gone out to, with the Equity Task Force, where we have distributed masks as well as test kits. And you were, you said you were on Monroe Street to meet the ministers. It probably was the Ministers Conference for Baltimore and Vicinity.

COMPTROLLER FRANCHOT: Correct.

LIEUTENANT GOVERNOR RUTHERFORD: We actually delivered 2,000 masks and another 1,000 or a couple of hundred tests to the conference a couple of weeks ago for them to distribute with other faith organizations in Baltimore City and last week, we were in Prince George's and Charles County distributing it to health and nonprofits as well as to some of the

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faith community, and the health department, the county health department in Charles County as well. So the counties are getting them. The county health departments, I know, are getting them directly from the department, but also the Equity Task Force is taking them out so they can be widely distributed amongst different groups, both nonprofits and the faith community.

COMPTROLLER FRANCHOT: Excellent.

LIEUTENANT GOVERNOR RUTHERFORD: I have, had a couple of things I was going to look at. Oh, I wanted to mention Sheppard Pratt. Mr. Secretary, don't sit down yet. Well, you did sit down. Maybe you don't have to stand up.

MR. SCHRADER: No, that's all right.

LIEUTENANT GOVERNOR RUTHERFORD: But A12 is an emergency contract with Sheppard Pratt to hire staffing. And I was out at Sheppard Pratt last week, I believe it was. These days and weeks go by quickly. At their facility over in Elkridge, what they call their Baltimore-Washington Campus, beautiful new campus, to replace their Ellicott City facility. And my understanding is that we reached out to Sheppard Pratt to take the lead or to relieve any of the hospital emergency rooms that were getting COVID patients who also had behavioral health issues, either substance use disorder or mental health issues, that Sheppard Pratt with this 80-bed facility could offload some of those individuals out of the facility. And so if you can tell, talk a little bit more about what they are doing there.

MR. SCHRADER: Yes, sir. And I must say that our partnership with the hospitals throughout the State, they were magnificent through this. We

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were, you know, obviously when we started getting it up to 3,462 at the peak, it was getting a little scary. The thing that we are trying to understand, and that's why we're doing this one-year horizon for planning, is that both the hospitals and the nursing homes still have staff shortages. And the work force is worn out. They are very tired. A lot of people have left the field. And so we are working with the hospitals. So we are going above and beyond in any way we can to provide relief to the hospitals and their emergency departments, getting people out of the hospital. And behavioral health has been a longstanding area. We have been working on a plan for a referral system for the last year for a bed registry and referral system. And that planning, we used that to kick in here and we accelerated the process with Sheppard Pratt and they were willing to do this. And there is a much larger plan, which obviously we don't have time to get into here today, which will continue to support the hospitals in this area.

LIEUTENANT GOVERNOR RUTHERFORD: The crisis centers that you are planning --

MR. SCHRADER: Yes, sir.

LIEUTENANT GOVERNOR RUTHERFORD: -- are --

MR. SCHRADER: -- very --

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Thank you. No, I just wanted to point out that that is a positive development. And also just let people know that the COVID pandemic has had a major impact on our, of course our physical health, but also the mental well-being of Marylanders, all Marylanders, but particularly those who are suffering from mental health ailments. It has been a particular challenge. And those who have been suffering

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from substance use disorder. We have seen the setbacks associated with people who have been in treatment and recovery being set back by the anxiety and uncertainty associated with this pandemic. So some have called it the long tail of the pandemic is something we are going to be dealing with for years to come.

MR. SCHRADER: Yes, sir.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you. Any other questions on the Secretary's Agenda?

COMPTROLLER FRANCHOT: I have a question on A24. This is an emergency report from the Department of Health that adds \$40 million onto a contract with Ernst & Young, New York, New York, to assist with the department's COVID-19 response as well as help with the recovery efforts from the December 2021 (indiscernible) that everyone has read about.

So Secretary Schrader, this modification represents a nearly 400 percent increase in cost from the original contract that MDH entered into last January. The report before us today shows this contract, inclusive of prior modifications, has ballooned from \$3.7 million. This is a substantial investment of taxpayer dollars. And to be honest, a year later I'm still not very clear what the State is getting from these particular consultants. I understand the need for consultants. But could you briefly just give us an overview of the work that Ernst & Young is doing to assist your agency, particularly to address the cybersecurity incident?

MR. SCHRADER: Yes, sir. And of the \$40 million, as I -- let me go back to what I said before. We are looking over the horizon through the end of the year so that we anticipate what our needs are for the next year. And \$25

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million will be for the COVID part of it and \$15 million is for the network incident, which just occurred on December 4th.

For the \$25 million for COVID, they are going to continue to support us in the areas that they have. You know, vaccination planning, testing, PPE, contact tracing, and possible surge capacity, which is Functional Area 1. For Functional Area 2, which is a new element here, right in the middle of this COVID problem we have been having for two years, we had, and I can't say it's anything less than despicable attack on the State's Health Department. It's really an outrage. Fortunately -- and I won't go into it. I gave a fairly long description of what we have been doing over the last five years to build the resiliency of the Health Department against such attack. And I've said at many staff meetings with my team, my biggest fear was us being attacked with a cyber event.

We spent a lot of time, there's not time to get into the detail of the last five years, but one of the areas that we did do this past summer we put in place a continuity of operations policy in the department. And when this hit, we were able to mobilize our team. But there were gaps in our capability in terms of being able to analyze -- we have like 460-plus functions in the department. It's a sprawling enterprise. And those functions were, needed to be organized into tiers, tier one, tier two, tier three, and tier four. And the fortunate part of it, because of the work we had done, many of our core systems were not affected.

So what we are using, to get to the point, and I apologize for, this is just such a big problem, is that we needed a surge workforce that knew and was expert in COOP planning. We have been working with MEMA and our team over the last couple of years to build our COOP capability but it was for smaller

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scale events. This was a very large scale event. So we needed, and we needed people who understood.

I have actually in a prior life been a certified continuity of operations, certified trainer in this area. And so I knew what we needed to do and we have been working on this. But because of the scope and scale of the attack, we needed to surge, and right now we've gone through the, Chip Stewart is here I believe, we have gone through the investigative part of it and we have put the work arounds in place. We're about 75 percent operational now. The next stage is to reconnect and start to recover the systems. And we will need a lot of help working with our functional areas to bring our functional areas back online.

LIEUTENANT GOVERNOR RUTHERFORD: I was going to say, didn't Ernst & Young, did they build the prop system? The prop --

MR. SCHRADER: That was another part of their scope, yes, sir.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. SCHRADER: Where they were surveying the nursing homes for vaccinations, testing, keeping track of the daily updates. Not to, this may come up a little later, one of the reasons why we are so interested in the agile contract is, and that has been for 18 months now we have been waiting, is we want to move that kind of development over to the agile teams and not have Ernst & Young doing that.

COMPTROLLER FRANCHOT: But right now Ernst & Young is helping with these COVID dashboards and --

MR. SCHRADER: Correct. Yes, absolutely.

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COMPTROLLER FRANCHOT: Okay. Speaking of tangible deliverables from Ernst & Young, it's my understanding that Ernst & Young has created a one-stop portal for hospitals to monitor vaccine inventory and request transfer for doses. Is any of the software technology used to create, operate, and maintain these portals, internal or external, are they all proprietary to Ernst & Young or are they, do you have control over them?

LIEUTENANT GOVERNOR RUTHERFORD: The State owns them.

MR. SCHRADER: It's our stuff. Again, the reason why we want the agile teams is we need to have technical people come in to support that so we can back EY out and move long term contract resources into the department. And that's --

COMPTROLLER FRANCHOT: Great. And when you back EY out, down at the end of the year, do you have a written agreement for them to destroy any --

MR. SCHRADER: We own all the data. The way we set this up, for example, we have built what's called a COVID data mart. And that's basically all the COVID data that is used from various sources in one place. And we are now moving that over into DoIT's environment so that it's our data.

COMPTROLLER FRANCHOT: And as you back out Ernst & Young, which is anticipated, I take it they are training your staff and other staff --

MR. SCHRADER: Yes.

COMPTROLLER FRANCHOT: -- on how to --

MR. SCHRADER: Yes, we are organized in a unified command structure. So it's a combination of State employees, there's about 1,400 of us in the, there's almost 3,000 people in the current recovery command. There was 11,000 last year when we were doing mass vax. But we have about half of the

people are State employees working side by side with various contractors and some contract personnel that are State employees.

COMPTROLLER FRANCHOT: So ultimately the State, except in certain instances, is going to be free from these very expensive and worthwhile consultant contracts, but very expensive.

MR. SCHRADER: That is, yes, that's our strategy. And I will say we're the first large agency in the State, we have an MOU with DoIT. They provide us commodity services. We made a decision as part of this five-year plan that I mentioned earlier, I wanted to get out of the commodity IT network business because that's not our core competency. We are relying on DoIT and MDTHINK for those services now. We have actually been able over the summer, it was a three to five, four-year project, we have closed down our data center at 201 W. Preston and that is all now sitting with DoIT in their resources. So there has been a lot of progress. But as I said, we still need help.

COMPTROLLER FRANCHOT: Thank you, Lieutenant Governor.

LIEUTENANT GOVERNOR RUTHERFORD: And a lot of that has been, some of the items have been moved over into the MDTHINK and the cloud. And those were not affected by --

MR. SCHRADER: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: -- the intrusion.

MR. SCHRADER: That's correct, sir.

LIEUTENANT GOVERNOR RUTHERFORD: So it's all a work in progress. So thank you. Any other questions on the Secretary's Agenda?

COMPTROLLER FRANCHOT: Move approval, if that's okay.

TREASURER DAVIS: Second.

LIEUTENANT GOVERNOR RUTHERFORD: All right. We're all in favor. Thank you, Mr. Secretary. Department of Natural Resources?

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MS. HADDAWAY-RICCIO: Good morning, Governor, Mr. Comptroller, Mr. Treasurer. For the record, Jeannie Haddaway-Riccio, Secretary of the Maryland Department of Natural Resources. We have 11 items on our Real Property Agenda today for which we are seeking approval and I'm happy to answer any questions you may have.

LIEUTENANT GOVERNOR RUTHERFORD: Well, it's great to see the Program Open Space utilization. I see Fort Smallwood and there are other programs around the State in Calvert County and Howard County. But I do want to put particular attention to the \$6.3 million Program Open Space to Baltimore City Park and Recreation facilities. And specifically I want to mention, because this is something that I'm very much interested in and have for a long time, two of those facilities are named after former swing time jazz band leaders, the Chick Webb Center, Recreation Center and Pool, as well as the Cab Calloway Legends Square. Cab wasn't originally from Baltimore, but Chick Webb was born in Baltimore. And for those out there who don't know who Chick Webb was, I think most people, Cab Calloway lived a long time. So Bruce and I were still around when Cab Calloway was around. So many of us still know who Cab Calloway is. But a lot of people probably don't know Chick Webb. Chick Webb was born in Baltimore and he was born with a crooked back, probably scoliosis and didn't have the operation. He only lived into his late thirties. The Chick Webb Band was the band at the old Savoy Ballroom in Harlem. And he had a 19-year-old singer named Ella Fitzgerald. And Chick Webb was, at that time, I'm told, was the best band in the City. And they had, you know, battle of the bands and other bands would come, including Tommy Dorsey's band. And they would outperform them every time. So I hope there is a mural there and I was talking to former Senator Larry Young this morning. He wasn't familiar with it. And I said, I hope there are murals of Cab and Chick Webb at these rec centers and

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parks so that younger people can know who these, or at least ask the question, who are these named after? You know. So. I'm going to guess how many people knew who Chick Webb was? Impressed. I'm impressed. Two out of 40.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: But I am impressed with the two. So thank you. Any questions, comments with regard to Department of Natural Resources?

TREASURER DAVIS: I did know Ella Fitzgerald.

LIEUTENANT GOVERNOR RUTHERFORD: He knew, I think everybody knew Ella. At least you should have, or you have to leave --

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: -- escort you out. And yes, you can use your billy club. Any other questions on Natural Resources?

COMPTROLLER FRANCHOT: Move approval.

TREASURER DAVIS: Second.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Thank you very much.

MS. HADDAWAY-RICCIO: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: University of Maryland System.

MR. HICKEY: Good morning, Governor, Mr. Comptroller, Mr. Treasurer. Tom Hickey representing University System of Maryland. We have four items for your consideration this morning and we're happy to answer any questions.

LIEUTENANT GOVERNOR RUTHERFORD: Here is a question for the Board. When are we going to require Mr. Hickey to come back to the Board in person? His predecessor used to always be here, and he is using this

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pandemic to stay there in his office. No --

COMPTROLLER FRANCHOT: Do you want me to make a motion?

(Laughter.)

TREASURER DAVIS: I'll second it.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: -- but any questions on the University System?

TREASURER DAVIS: No, sir.

COMPTROLLER FRANCHOT: No. Move approval.

TREASURER DAVIS: Second.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. All in favor.

MR. HICKEY: Thank you very much.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you. Come back soon.

MR. HICKEY: (Indiscernible).

LIEUTENANT GOVERNOR RUTHERFORD: Department of Transportation?

MR. PORTS: Good morning, Governor --

LIEUTENANT GOVERNOR RUTHERFORD: Secretary James Ports, Jr.

MR. PORTS: Good morning, Governor, Mr. Comptroller, Mr. Treasurer. For the record, my name is Jim Ports, Secretary of the Maryland Department of Transportation. Like you, Mr. Treasurer, this is my first in person as Secretary. So we will be together in that respect. The Maryland Department of Transportation is presenting 13 items for your consideration. We would be happy

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to answer any questions you may have.

TREASURER DAVIS: Governor?

LIEUTENANT GOVERNOR RUTHERFORD: Yes.

TREASURER DAVIS: If I may, Item 6, mobility paratransit operations and maintenance services. Just a couple of things. I was, because I have heard a lot and got a lot of questions regarding the on time percentages. And so when I went back and looked at the, I guess at the matrix over the past year, in January of 2021 the on time percentage was 94.3. And from January to September, it dropped precipitously each month, for a total of like a one-third drop. It went from 94.3 to by this past September the on time percentage was 59.2. And then I noticed from September to January, it started going the other way. It went from 59.2 to just this past January, 87 percent on time. What happened? Let me start there. What happened? Why the decline, and then what happened to reverse it?

MR. PORTS: Sure, I will be happy to answer that, Mr. Treasurer. So during the pandemic, a lot of the drivers were getting COVID and we just did not have drivers available. Either they got COVID or when someone got COVID then they also had to not show up for work. And this is a vulnerable group that we are transporting, being disabled to begin with. And so, and I think we were also in the middle of a transition with vendors. We used to have two vendors, and you'll notice we increased it to three for that purpose. You may also notice that you probably heard from the school bus drivers that there's a school bus driver shortage. There's trucking shortages. There's just not a lot of drivers out there that are able to do this.

So one of the things we did is we went from two vendors to three so that we could increase the amount of drivers that we have. We also increased the amount that they would be earning on this RFP. So that, too, helped get more

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drivers into the seats for this vulnerable group of people that we transport.

TREASURER DAVIS: Let me stay with that, because I was going to ask the question how does going from two to three help. Ideally, and I understand budget constraints and so forth, what would be, in your opinion, what would be the ideal number of vendors for this program to work, you know, as smoothly as we believe it can work?

MR. PORTS: Sure. That's a great question. In my previous life, we had three firms that were associated with that. And then it went down to two. And that's when it seemed to be more problematic. And then again, seeing that we upped it to three. And we also have a small group at MTA, about 12 drivers, in case someone falls through the cracks or gets stranded, we can dispatch one of our MTA employees for that service. So we are really trying to increase that service to get back. You noticed, and I was by the way very impressed that you knew it was 87 percent this last month because --

TREASURER DAVIS: Don't be. It's right here in my notes.

(Laughter.)

MR. PORTS: But you read it.

(Laughter.)

MR. PORTS: You read it. A lot of people don't read nowadays, Mr. Treasurer. And you know, we were talking about, actually I was speaking to Holly Arnold yesterday about this service and asking her when we were going to try to get it back up. But they have been working hard over the past few months to get it back up. Keep in mind that when a contract ends, a lot of those drivers look for new jobs. Right? And that's where you saw the really deep dip, along with COVID. So it was a two-fer, right? COVID and the contract change. Now that we have got, we're getting three vendors on board, we expect that to go right back up and we expect to be in the nineties again.

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TREASURER DAVIS: Thank you.

MR. PORTS: Where we should be.

TREASURER DAVIS: It's very important to a lot of people. So I was glad to see the reversal and the sharp uptick. And anything that we can do to, you know, keep this going, please, I would ask that you all do whatever you can. So thank you.

MR. PORTS: Well unfortunately, Mr. Treasurer, I just will say this for the record. I ran transit for seven years in Harford Transit, turned that system around. And this is probably one of the most complex services that we provide because it's a shared ride and it's on time performance. So it is very difficult. But I can assure you that I'm very focused on it as a former transit manager, and also as Secretary now.

TREASURER DAVIS: That's good enough for me, sir.

MR. PORTS: Thank you.

TREASURER DAVIS: All right.

COMPTROLLER FRANCHOT: I'm really glad the Treasurer brought this contract up. Is Administrator Arnold available?

MR. PORTS: I know that -- I don't know if she's on here or not.

SECRETARY GONTRUM: Just one moment, please.

MR. PORTS: Is she on? Okay, good. I know she is getting ready to testify today, too.

MS. ARNOLD: Hi, good morning. Can you hear me?

COMPTROLLER FRANCHOT: Good morning, Administrator Arnold. This is the Comptroller. And I had a specific question. The Treasurer brought up the issue of paratransit this time and the Secretary of Transportation gave a very good presentation as to information for the interest in on time delivery and the fact that -- yeah, go ahead.

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LIEUTENANT GOVERNOR RUTHERFORD: Can you introduce yourself for the record?

MS. ARNOLD: Yes. Thank you, good morning, Governor, Treasurer, and Comptroller. My name is Holly Arnold. I'm the Administrator of the Maryland Transit Administration.

COMPTROLLER FRANCHOT: Okay. Well, thank you for being with us. And my understanding is that this is an award to three vendors and it totals \$417 million. And as both the Secretary and the Treasurer mentioned, this is for a very important topic, which is how to pick people up on time who are disabled and in need of these services. I have a procurement related question. Because apparently you ranked the selected vendors by tiers, is that right? The three, two of them are in one tier and the other one is in a separate tier?

MS. ARNOLD: Yes. We have one of the vendors that is going to be providing more service, more vehicles, more operators, based on how they were ranked.

COMPTROLLER FRANCHOT: Okay. So two of the vendors, as I mentioned, fell into the same tier. However, there is a significant difference in pricing between the two companies. First Transit out of Cincinnati, Ohio, their bid was \$20 million more than the other company in their tier, Transdev Services out of Lombard, Illinois. Could you just educate us on why we are seeing such different pricing, not only for companies in the same tier but companies who have frankly held this contract previously and obviously understand the requirements to the contract.

MS. ARNOLD: Yes. That's primarily driven by subcontracting. So Transdev has historically and plans to continue to subcontract a portion of that service. And so they see cost savings associated with that that then gets passed on to us. So we did look into that pretty extensively and it has been historically true

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for the agency.

COMPTROLLER FRANCHOT: And you are confident that Transdev can deliver on what they are contractually obligated to, based on --

MS. ARNOLD: We are. We are. And we have had a really successful relationship with them and using their subcontractors.

COMPTROLLER FRANCHOT: And again, the explanation for the \$20 million discrepancy in the same tier, what was that?

MS. ARNOLD: It's primarily again using those subcontractors. You know, some of the things that they are doing is using right now a transportation network company called UZURV as a subcontractor. So essentially, instead of having full time employees they are able to use contract employees to come in and provide the service. They are still screened, they are trained, but they do see cost savings associated with that.

COMPTROLLER FRANCHOT: And that's a cost savings passed along to us?

MS. ARNOLD: It is, yes. So it is beneficial both to us and to them.

COMPTROLLER FRANCHOT: What about the other company? Are they going to learn from that competition or not?

MS. ARNOLD: We always hope that they are learning from each other and we would encourage that but they didn't include the subcontractors in their proposal.

COMPTROLLER FRANCHOT: Okay.

LIEUTENANT GOVERNOR RUTHERFORD: I would think if they see that more business is going to go to the other contractor, that they will have to scratch their head and maybe say, well why are we not, and it's because you cost more. What are they doing --

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MS. ARNOLD: Yes, we are always --

LIEUTENANT GOVERNOR RUTHERFORD: -- learn.

MS. ARNOLD: Absolutely, Governor. Always encouraging innovations, and we do share with the contractor some of the things that other contractors are doing. And so hopefully they will learn and continue to adjust their pricing to be competitive.

COMPTROLLER FRANCHOT: Yes, just I'm a little confused. Is it the same amount of work and simply the different -- is it Transdev, are they the ones who use the UZERV or whatever you called it?

MS. ARNOLD: Yes. Transdev --

COMPTROLLER FRANCHOT: Which --

MS. ARNOLD: Transdev --

COMPTROLLER FRANCHOT: -- same, we are going to do the same amount of work but we're going to pay First Transit \$20 million more than they are. How can that possibly be good for the taxpayers?

MS. ARNOLD: So we think that having the three vendors will allow us more flexibility to move rides around. If it turns out that, you know, one vendor can provide more service at a cheaper rate, we can again have that flexibility in our contracts. And also it depends a little bit on the type of work that they do. So we, you know, tend to use First Transit for shorter trips versus longer trips. That does have an impact on their costs.

COMPTROLLER FRANCHOT: Okay. You are working on it, I take it.

MS. ARNOLD: Absolutely. This contract has a lot of different changes in it that provide MTA more flexibility and more oversight of the contractors. We are incredibly hopeful that with this new structure that we will continue to see efficiencies in terms of cost and also that improvement for the on

time performance, which is really that most crucial thing for our riders.

COMPTROLLER FRANCHOT: Great. And if you could keep us on, inform us as to what we are getting for the \$20 million more we are paying First Transit.

MR. PORTS: Mr. Comptroller, I might be able to answer that --

COMPTROLLER FRANCHOT: Thank you. Yes --

MR. PORTS: So if you look at MV, so MV will have between 151 and 200 vehicles, and then Transdev will have 101 to 150. So you are looking at much more vehicles that they have to purchase. So that would be part of that contribution of the higher cost.

COMPTROLLER FRANCHOT: Yes, but are they picking up substantially more people? Or are they simply using the different business plan that, I mean, \$20 million is a lot of money for, if First Transit and Transdev are dividing, or a third each, I guess, of the traffic.

MR. PORTS: So the service gets very tricky, in a way, because obviously longer trips take longer, and more gas, more fuel. And the shorter trips are much easier to do. So it really depends on the dispatchers and where they dispatch from and where the folks are going to. But the vehicle count I am talking about, you are looking at another 50 vehicles they have to purchase. And that is part of --

COMPTROLLER FRANCHOT: -- Transit --

MR. PORTS: MV, MV.

COMPTROLLER FRANCHOT: Who is MV?

MR. PORTS: MV is the --

LIEUTENANT GOVERNOR RUTHERFORD: Number one --

MR. PORTS: -- the number one. They are about 40, yeah, close to \$30 million more than the other one.

LIEUTENANT GOVERNOR RUTHERFORD: Can I ask a question, too, Mr. Comptroller?

COMPTROLLER FRANCHOT: Yeah, no, I just want to follow up and say --

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

COMPTROLLER FRANCHOT: -- if you could give us --

MR. PORTS: Sure.

COMPTROLLER FRANCHOT: -- because what you are talking about is longer trips. Obviously, they should get more money. But if it's not that, if there is a big discrepancy, and just if you could help us follow that a little bit.

MR. PORTS: I don't want to say that one is going to get longer trips over the other here, because I don't know what trips they are going to get until they are actually dispatched out. And they send those reports out the day before with a list of how they can, it's a shared ride, so the list of where they are going to be picking up and dropping off according to the needs of the people that are utilizing the service. But what I was referring to is just the number of vehicles they have to purchase. And we can get all that information to you. Let me, look--

COMPTROLLER FRANCHOT: Yes.

MR. PORTS: I'd be happy to sit down with you on that. Because this is a very complex, as I mentioned before to the Treasurer, a very complex service to deliver because of the pickup and delivery. So you get charged for on time service for pickup, you get charged for on time service for delivery or the end point. And so it's very tricky when you are talking about shared rides because, you know, he may get on earlier, but I may get off earlier because of the route that they pick. But it is a shared ride service. So I am telling you, it's very complex. But we would like to sit down with you and explain how that works in detail, if you'd like.

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COMPTROLLER FRANCHOT: Excellent.

LIEUTENANT GOVERNOR RUTHERFORD: My question, and it kind of comes back to something that Ms. Arnold had just said, it appears as though First Transit may be used more for short rides. I think that's what she mentioned, the short rides maybe. But then the other, the real question is, how do they come up with the financial rankings? This isn't really the actual what it's going to cost. This is based on a scenario that you gave them based on a projection, and then they respond to that. So it doesn't mean that they are necessarily going to spend \$20 million more. But taking this static scenario, this is what they said, oh, this is what it's going to cost for me to do that. And then as they, you know, who gets picked and how the rotation goes is really going to determine the real cost.

MR. PORTS: Correct. That's correct. And it's not to exceed.

LIEUTENANT GOVERNOR RUTHERFORD: The procurements

--

MR. PORTS: So it is in the contract as not to exceed. And I think Holly, correct me if I'm wrong, but you know, some of these firms are already located in Baltimore. Some of them have to move here and establish a presence?

MS. ARNOLD: So I think everyone is located in Baltimore. But we do have to speak specifically to the finances Josh Wolf, MTA's Director of Mobility on, if you guys would like to hear from him.

MR. PORTS: We can get with the Comptroller later. It would probably be a lot easier, because like I said, it's very complex.

LIEUTENANT GOVERNOR RUTHERFORD: Do you want to hear some more?

COMPTROLLER FRANCHOT: No, I'm fine right now. But I do want to hear more down the road. Because I was in the Legislature, Chairman of

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the Transportation Committee.

MR. PORTS: I remember.

COMPTROLLER FRANCHOT: Yeah --

(Laughter.)

COMPTROLLER FRANCHOT: -- because we have got very vulnerable people standing outside waiting. And so there is inevitably a lot of friction. And to the extent you are making progress, I'm happy to vote for \$417 million. I just want to make sure that the three vendors are, you know, using a business model that ultimately will save the State some money perhaps down the road. That's all. So whatever you want to provide us to help me understand that would be great.

MR. PORTS: Mm-hmm.

MS. ARNOLD: Absolutely. We'll follow up.

COMPTROLLER FRANCHOT: Job well done if in fact you, I assume your data is correct, but you are up at close to 90 percent on time. That's pretty remarkable.

MS. ARNOLD: Yes, the team has done a really great job continuing to push on that. We're not yet where we need to be and this contract is a huge piece of helping us to get back to where we need to be and provide that vital service for our riders.

COMPTROLLER FRANCHOT: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Any additional questions on Transportation's Agenda?

COMPTROLLER FRANCHOT: Move approval.

TREASURER DAVIS: Second.

LIEUTENANT GOVERNOR RUTHERFORD: All right. Very good. Yes, just on Transportation, when I was younger growing up in D.C. and

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catching the Metrobus and D.C. Transit before that, I didn't pay any attention to on time. I knew what time I had to get to school or get to work, I just went to the bus stop. And when the bus came, I got on the bus. But that's not paratransit. That's just -- but now I know it's a lot more scientific. And you can look up when the bus is supposed to be there. What time, now with Metrorail, the train is supposed to be there. And so it's a lot more versus being a younger person who just went to the bus stop, stood in the cold and rain, and just waited for the bus to come. I was told that they could be late, but not early. At the time, at the time the buses could be late but not early.

MR. PORTS: They can't leave early, that's correct.

LIEUTENANT GOVERNOR RUTHERFORD: Right. Because people really get upset if it leaves early. They get, they are partially upset if it's late. But they are really upset. So. Okay. The Department of General Services Agenda. And before we start, I have a presentation I would like to make.

We have a Governor's Citation as to Valerie Radomsky. This is her last Board of Public Works meeting as the Governor's Liaison. And I'd like to recognize her with this Citation. And I will take a moment to read it.

Be it known that on behalf of the citizens of the State, in recognition of your outstanding service and accomplishments as a trusted advisor to the Hogan-Rutherford administration, serving as the Board of Public Works Liaison, in honor of your integrity, knowledge, and excellent ability to cope with a challenging and complex range -- coping is with the Governor, not -- a complex range of issues on behalf of the people of Maryland. And as our citizens join together in expressing our best wishes, admiration, and sincere gratitude for your positive contribution to State government, we are pleased to confer upon you this Governor's Citation, signed this day by the Governor, Lawrence J. Hogan, Jr., myself, and the Secretary of State.

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MS. RADOMSKY: Thank you.

(Applause.)

MS. RADOMSKY: It's been a pleasure. Never a dull moment at the Board.

(Laughter.)

MS. RADOMSKY: But I'll continue involvement with the Board at MDOT.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Thank you again.

COMPTROLLER FRANCHOT: She's got my vote.

MR. PORTS: I know.

(Laughter.)

MR. PORTS: I won't bring her all the time, then.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Mr. Secretary?

MR. CHURCHILL: Yes. Well, good morning, Governor, Mr. Treasurer, Mr. Comptroller. For the record, I'm Ellington Churchill, Secretary for the Maryland Department of General Services. Today we are presenting 39 items on our Agenda. We are withdrawing Item 21 at this time. This is an item which will return on a future Agenda. Our Agenda features \$10 million in capital grants and loans, \$5 million of that going to Johns Hopkins University for the Milton Eisenhower Library, and \$2 million going to the Hagerstown-Washington County Industrial Foundation. DGS is awarding nine contracts for small businesses and nine contracts to minority business enterprises. And Governor, you have already noted but we have about a dozen speakers requesting public comment for three items, Items 30, 38, and 39. And I do know Chick Webb because my father is a retired music teacher.

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LIEUTENANT GOVERNOR RUTHERFORD: Ah, good.

MR. CHURCHILL: And so all of our family had to learn how to play instruments. I did not play drums like Chick. I was a baritone saxophone player.

LIEUTENANT GOVERNOR RUTHERFORD: Baritone sax? There are not a lot of baritone sax players out there.

MR. CHURCHILL: When you were in his band you had to --

LIEUTENANT GOVERNOR RUTHERFORD: That's what we needed, right.

(Laughter.)

MR. CHURCHILL: We have representation available to answer your questions at this time.

LIEUTENANT GOVERNOR RUTHERFORD: I have a question about 11-CGL, the Energetics Technology Center. Just it sounded like it's a Department of Defense program, and I was a little confused that we're going to grant them -- maybe it's a public-private partnership?

MR. CHURCHILL: Well, we do have Deirdra Bell, who is the Director. I cannot answer that --

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. CHURCHILL: -- directly at this time. I don't know if you can bring up Deirdra Bell? She may be able to answer the partnership relationship.

LIEUTENANT GOVERNOR RUTHERFORD: Well, if she is not available, you can get back to me on that. I'm not going to object. It's just it was a little different when I saw it and kind of looked it up, and it's like this is kind of an Aberdeen related, but I don't, it must be a public-private arrangement since it's a campus and collaboration. So maybe that's the case.

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I do want to point out the design contract for your new headquarters for the Department of General Services.

MR. CHURCHILL: Thank you, Governor. Of course, we are expecting to make a big impact in the Barclay neighborhood. And to turn around a building that the community has wanted to --

LIEUTENANT GOVERNOR RUTHERFORD: It's been, it was an issue when I was General Services Secretary. Parole and Probation was there. The community hated it. It's right next to a school. You know, Parole and Probation, they cater to a crowd that are not necessarily choir boys. So having, it being right next to a school, the community hated it. And it was a terrible building. It had mold, it leaked, all kinds of things. So I'm glad that --

MR. CHURCHILL: We are going to turn it into what will represent a new standard for hybrid working conditions for executive departments and will be a stellar building that will mirror what we did with the Post Office. And of course, we are in the community location because of our relationship with public schools --

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

MR. CHURCHILL: -- makes sense to be in that area.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Any questions? Yes.

TREASURER DAVIS: Sir, Item 39, the information technology.

MR. CHURCHILL: Agile Teams?

TREASURER DAVIS: Yes.

MR. CHURCHILL: Yes, sir.

TREASURER DAVIS: Let me start with a couple of things. It said that DoIT would receive 99 bids. Do we know how many awards that they are going to make on this?

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MR. CHURCHILL: Yes. When the contract was let, we were of course overwhelmed with 99 responses. The process was always going to be tiered. We would take whatever the responses were at that time, do a technical evaluation, short list of 20, and then go through another period of evaluation, and to get to ten, which is what we are bringing to the Board today. So that was all prescribed as a part of the procurement.

TREASURER DAVIS: Are any of them, are any of those firms minority business firms, MBE firms?

MR. CHURCHILL: Of the ten, yes, yes. And I will have to let you know. I believe we have two or three that are --

LIEUTENANT GOVERNOR RUTHERFORD: Gantech.

MR. CHURCHILL: Yes, Gantech out of Columbia and I will ask members of my team -- while we pull that up for you.

TREASURER DAVIS: Let me move to the, it's my understanding that there are protesters that are I guess seeking through I guess the Board of Contract Appeals, appealing the decision. Can we elaborate a little bit on that? Sort of what's the status and --

MR. CHURCHILL: Sure.

TREASURER DAVIS: -- how we're looking to go forward in the midst of an appeal?

MR. CHURCHILL: Well, I'm going to ask of course Secretary Leahy to address the urgency of bringing this forward. But I will address the question on the process on appeal. And it is a normal process that we go through and we do anticipate.

There are several series of appeal rights that any vendor has as a part of our procurement process. And so this, we have two appeals, two that are in process now. And they, and those firms have filed a notice of appeal of the

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decision, where they were not included in the short list of ten. And primarily the note of the objection is just the way that the evaluation was ranked and that has been, is handled by our procurement officer and was a very in depth evaluation, very structured, and with the evaluation team. So the vendors that are purely in question are questioning our evaluation process, which is not usually, which has been defendable with the Board of Contract Appeals.

I will ask Secretary Leahy to come and address the urgency of this vehicle at this time.

LIEUTENANT GOVERNOR RUTHERFORD: And one of the contractors was, who was protesting, was ranked 13 and --

MR. CHURCHILL: Overall 13 and 20.

LIEUTENANT GOVERNOR RUTHERFORD: -- and 20.

MR. CHURCHILL: Overall 13 and 20.

TREASURER DAVIS: The question I would have on that point, because that struck me as well. If they were to be successful, could their 13th and 20th ranking vault them up to something that would be more likely for them to be successful in receiving the contract?

MR. CHURCHILL: We would have to see the rationale for, the reason to strike. And then we would have to look at the evaluation process for not only those contractors, but the contractors in between the ten that we have brought to the Board. So if they are successful, they may not be, benefit from moving up in the rankings. Of course our process does allow to expand the number of awardees, should it be necessary.

LIEUTENANT GOVERNOR RUTHERFORD: So it is possible that one or both could be, become the 11th and 12th awardee? Possible.

MR. CHURCHILL: Based on the decision.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

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MR. CHURCHILL: The aspects of the decision. So our Attorney General has looked at that and finds that we have a great foundation to defend our process. But we will see. And as you are aware, the process can take a very, it can be very lengthy --

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. CHURCHILL: -- based on the number of appeal rights that a vendor may have.

LIEUTENANT GOVERNOR RUTHERFORD: Well, I think we can hear from Mr. David Cole, that is representing one of the appellees to give his position on why we should go forward with this and based on the protest. And we'll get to the Secretary later. I'd like to hear from Mr. Cole, who signed up to speak.

MR. CHURCHILL: Mr. Cole, if you will address the Board, and of course please introduce yourself.

MR. COLE: Good morning, Mr. Lieutenant Governor, Mr. Comptroller, and Mr. Treasurer. I'm Dave Cole. I'm an attorney at Baker Donelson in Baltimore. I represent Artisys Corp., one of the firms that you have been discussing that has a pending protest appeal at the Maryland Board of Contract Appeals.

The basis of the protest and our appeal is that Artisys' references and expertise and experience were not properly considered in ranking (indiscernible). Artisys is a veteran and minority African owned company. They have been in business for over 30 years or more. And it is very experienced with the subject matter.

As discussed, there are ten awardees. I understand from Mr. Churchill's statement that the ten awardees can be expanded to perhaps more, if I understood that correctly. But the appeal is pending. The State nevertheless

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asked that it be awarded in the best interest of the State now, or approved rather. This appeal process has been known to take over eighteen months. These awardees are merely able to accept work orders for projects that aren't yet in existence. So there is no sense of urgency or immediacy. And this is something that should wait out of fairness to my client, Artisys, until its appeal is adjudicated. (Indiscernible) that's the first five can be approved, with the remainder being left until, again, Artisys' appeals is adjudicated and determined. Artisys is just here looking for a result. It believes its protest has real merit and expects to prevail.

LIEUTENANT GOVERNOR RUTHERFORD: So the, I mean, the remedy that you seek would be to be added to this contract, correct?

MR. COLE: That is correct.

LIEUTENANT GOVERNOR RUTHERFORD: Am I understanding that the appeal process could take anywhere from six months to eight months to get a decision?

MR. COLE: Our appeal was filed on February 2nd. I checked as early as this morning with the Board (indiscernible) an order has not yet been issued.

LIEUTENANT GOVERNOR RUTHERFORD: Right. Yes. So I mean, just based on history it can take that long to get really a decision from the Board. And so you would be, or your client will be pursuing their remedies there in the six to eight month time frame. But at the same time, the State will be in a position where it is not able to transition some of these emergency contracts to competitively bid contracts, as well as having the ability to respond to urgent needs that may arise and have to then utilize emergency contracts to address those. So in any event, you still will be six to eight months to get your, you know, to get your hearing in court, or before the Board.

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MR. COLE: If an emergency situation did exist, and I don't believe one does now, a request for a proposal could be put out for bid for a specific purpose to take care of that concern. If that situation should arise.

LIEUTENANT GOVERNOR RUTHERFORD: Well, requests for proposals typically take a little bit longer time, if you are responding to something that's urgent such as our network intrusion that we are still dealing with as we find and as the investigation goes on, as you find maybe additional challenges that you need to get someone in there right now. So but --

COMPTROLLER FRANCHOT: Could I ask a question?

LIEUTENANT GOVERNOR RUTHERFORD: Yes --

COMPTROLLER FRANCHOT: Yes, thank you for being here and testifying. My understanding is there are two, and I think you are one of the two companies that are protesting this --

MR. COLE: Yes, sir.

COMPTROLLER FRANCHOT: -- but I understand there were, in addition to you and whoever else is before the Contract Board of Appeals, there were five other protests filed. Is that your understanding? By other companies.

MR. COLE: I'm not aware of that, Mr. Comptroller.

COMPTROLLER FRANCHOT: Well, you know, I'm inclined to vote against this. Because this \$250 million is now being dedicated to ten companies and maybe yours, if you get through the legal system.

MR. COLE: Yes, sir.

COMPTROLLER FRANCHOT: My understanding is we have a CATS system already where we have 99, we had 99 bids off of that. And my concern is that Maryland's reputation for being open to business is going to be, yeah, but we're going to winnow it down from 99 down to ten and we're going to award \$250 million, maybe not \$25 million to each company, but maybe more to

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some of those companies. And I just don't understand how that is a good optic for the State of Maryland's business commitment. And maybe you can comment on that, and thank you for being here again.

MR. COLE: I'm not sure I understood your question, Mr. Comptroller.

COMPTROLLER FRANCHOT: Well, I'll ask the Secretary that. But what I'm suggesting is, you know, you have your litigation underway. My concern is separate from your litigation, which I take very seriously, what is the State's business reputation if we take \$250 million and pick ten companies? I mean, that's just like, I don't know, it doesn't strike me as free enterprise, the competitive nature of these procurements that our taxpayers expect. And I'm obviously disappointed you are not on the list. But I'm also suggesting there are probably another, you know, 86 companies that also ought to be in on this significant piece of taxpayer allocation, \$250 million.

LIEUTENANT GOVERNOR RUTHERFORD: I think that's outside his scope of -- let's call the Secretary up to talk about the fact that this, and maybe the Secretary --

MR. CHURCHILL: Secretary Leahy can --

LIEUTENANT GOVERNOR RUTHERFORD: -- can also talk about this is a secondary competition.

MR. CHURCHILL: That is --

LIEUTENANT GOVERNOR RUTHERFORD: And it is widely used in the federal government. You are familiar with the GSA Schedules? They often have secondary competitions within the GSA Schedule to select, you know, a group that are prequalified for a specific task. And so it is not extraordinary. It does not have any impact on being open for business. This is really moving more into the last century, let alone the century that we're in now. Because the federal

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government has been doing this for years. And there are a host of companies around the Beltway that do very well working, the D.C. Beltway that is, that do very well working with the federal contracts, these contract vehicles like Schedule 70 or the GWACs that are offered by government wide acquisition contracts that are offered by different agencies. And many of them, they start with Schedule 70, that has thousands, maybe hundreds of thousands, of vendors that have a Schedule 70. And they winnow that down to do the very kind of thing that we are doing. So Mr. Secretary, thank you.

MR. LEAHY: Good morning, Governor, Mr. Comptroller, Mr. Treasurer. I'm Mike Leahy, Secretary of the Department of Information Technology. Thank you for the opportunity to speak. Mr. Comptroller, you have asked several questions. I'll ask you to put them in order.

Just very quickly to Mr. Cole's statements, the attorney's, saying that there are no contracts currently in need of this vehicle is incorrect. There have been close to 300 requests over the last two years that would have utilized this contract were it available. Many of them either extended contracts, and to the Comptroller's point had no competition because the current vendor continued to work, and a significant number of projects were dropped because we didn't have the people available. Which again, costs the citizens of Maryland more money over time because we are not able to incorporate the efficiencies and the modernization that we all agree is a necessary part of what we are attempting to do to provide the best services.

So Mr. Comptroller, to your point, I think there are two clarifications here that are critical. The first is, although 99 companies put in requests to be incorporated into this contract, the contract specified a very specific set of skills and a demonstration of expertise in those skills which go to what we spoke about previously when this Board approved the DPMO contract. And these

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were put together in tandem, that the DPMO contract was to establish a way to manage, get the efficiencies, by having people loyal to the State responsible for the project management. And the agile teams contract was to specifically bring in teams with specific skills in agile methodology that would be able to utilize those skills to address our contract needs. So to your point that this is reducing competition, I would argue that we found the ten contractors that based on this process were most qualified to assist the State immediately. And in fact the contract provisions include a provision for adding additional contractors if similar skills are needed or additional contractors are needed. And the methodology is an attempt to make certain that difficult processes that take a long time to procure are procured as quickly as humanly possible to make certain that the citizens of Maryland get the benefit of these particular technologies being implemented.

So I share your concern about competition, sir. And as we talked about at the hearing on the DPMO, you know, we agree that there are a number of instances. Your office itself has used the DPMO contract to benefit, to move things forward that had sat for some time. And this agile teams contract will bring the same benefit and allow us to move projects forward that are either under emergency contracts or that have been languishing because we don't have the internal ability to put together agile methodology teams.

COMPTROLLER FRANCHOT: Okay. So you mentioned DPMO.

MR. LEAHY: Yes, sir.

COMPTROLLER FRANCHOT: I did vote for it after a long discussion.

MR. LEAHY: Yes, sir.

COMPTROLLER FRANCHOT: And now I think we need to revisit it. I don't like this. I think you are picking winners. And you picked ten

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lucky companies, ten out of 99 that were interested in it. You guys did. And then you are going to pay them \$250 million. And you might add someone, you might add someone new if they really, you know, protest a lot. But that's not the kind of competition I'm suggesting is appropriate in this era. And you have 99 companies that have indicated interest and you guys go and pick ten lucky ones because they on average will get \$25 million each. Not a good idea, particularly because, if I could just finish --

MR. LEAHY: Please.

COMPTROLLER FRANCHOT: --that DPMO that you mentioned, we have four task orders being awarded under this mini master contract that you talked me into voting for all going to the same vendor. Come on. This is not competition. This is picking winners. And I really would strongly recommend that you pull this back and take another look at it because it just, I just don't think you are accomplishing what the public would be in support of. And to say that this is what the federal government does, that's another red flag right there. So please, if you can pull this back and take another look at it. Because I just don't, I'm not comfortable with it.

MR. LEAHY: May I address --

LIEUTENANT GOVERNOR RUTHERFORD: -- our federal government --

MR. LEAHY: Mr. Comptroller, there are several points you have made that I'm picking winners. That is not the case. As the Secretary from DGS stated, we have a process that has been put in place over a number of years that has been vetted, that the courts have found viable. If there are changes necessary, vendors tell us when things don't work properly. That's the first point.

The second point, just because one vendor won four contracts, what that means is they provided the lowest price and the best value, which is

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exactly what you have argued for. This is not picking winners, sir. This is picking the most qualified vendors that have demonstrated a capacity to do this work in a timely way.

LIEUTENANT GOVERNOR RUTHERFORD: Competition is winners and losers, sir.

COMPTROLLER FRANCHOT: Yeah but --

LIEUTENANT GOVERNOR RUTHERFORD: And they are not picking winners. It's a process, as he explained. And many of the things, as the Secretary had just mentioned, these are the types of things that the modern procurement, best value, which you are basically touting as a low bid contract. And you don't want low bid for, you know, critical mission areas. So you are always going to have, you know, someone that is not going to get the contract. And as you have been on the Board long enough, you are always going to have the person who doesn't get a contract protest. If the contract is large enough, you are going to get protests. You know, major construction projects, you get protests. Major, you know, IT contracts, you are going to get protests. That is just the process. That's why you have a Board of Contract Appeals. That's why you have a Federal Court of Claims, because they are set up just to handle those items. Because you're going to have it.

COMPTROLLER FRANCHOT: When you narrow a group of 99 companies that are on the -- that's two lists already -- 99, you lower that down to ten and you say we're going to bid and divide up \$250 million, that is a huge problem, as far as I'm concerned. Because you are talking about things that happen months from now or years from now. And you just can't anticipate what the situation is and then say, well, we can pick one more company and put it in, as if you know, it's some kind of whack-a-mole or something. No. That's wrong. We should have --

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LIEUTENANT GOVERNOR RUTHERFORD: Yeah, the ability -

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COMPTROLLER FRANCHOT: -- full, free, open competition.

MR. LEAHY: Again, I am sorry I am inarticulate. What I attempted to say to you, Mr. Comptroller, was although there are hundreds of CATS+ contractors, and what CATS+ means is that they have agreed to the State's terms and conditions so that when a particular RFP is let under CATS+, we have already established various terms and conditions. The second qualification here, and the one that I inartfully stated, is that although there are hundreds of companies, they have different skills. This contract is specifically for finding companies that have the ability to bring teams to bear that have an expertise in agile development methodologies. Most of the companies in CATS+ do not have the expertise or the personnel to do this work, including a number of those that bid out of the 99. So the question isn't merely that folks are in CATS+, it's a question of the specific request that we're looking for and a determination by the procurement officer and the evaluation committee that the individual companies selected indeed did bring value and that specific skill to the State of Maryland.

COMPTROLLER FRANCHOT: Is the lawyer for Artisys still on? Sir? Mister who was it?

LIEUTENANT GOVERNOR RUTHERFORD: Cole. David Cole.

COMPTROLLER FRANCHOT: Mr. Cole, can you come back on? Because I'm a little confused.

MR. COLE: I'm still here, Mr. Comptroller.

COMPTROLLER FRANCHOT: Yeah, apparently your company, or your client, or whoever, has been not, you know, is, I just wanted you to comment on the fact that the 99 CATS members, I guess, who indicated interest

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in this, that only ten of them --

MR. COLE: That is correct.

COMPTROLLER FRANCHOT: -- not including you, have the necessary whatever it's called, knowledge, transparency, expertise, etcetera, to bid on this contract for \$250 million. And that, I find that kind of extraordinary, that of the 99 that expressed interest, only ten passed through the filter. And didn't include you.

MR. COLE: Well, I do as well, Mr. Comptroller. Artisys came in 13th. It is a company that has been in business for over 30 years successfully serving these exact kind of contracts for the State of Maryland, the District of Columbia, the federal government. It strongly believes it has all, meets all the requisites that were listed in the request for proposal. In point of fact, it had a contract with the State of Maryland where it provided 37 qualified IT professionals and successfully completed that contract. So yes, that goes to why I suggested earlier that it be given every opportunity to be included within that ten, if that's what we're working with, and that may be possibly now only a very few number of awardees be approved to take upon any emergency contract situations as Secretary Leahy mentioned or that the amount of possible awardees be expanded. That seems only fair to my client, again, a veteran, African American owned company, just trying to do business in the State of Maryland.

COMPTROLLER FRANCHOT: But I, you are agreeing with me that you have enough technical specialized knowledge, you and other companies, that if they simply beefed up their procurement staff they could accept bids from companies like yours and you can compete for this \$250 million. That's the only question I have. Why did we somehow decide on reducing the 99 interested parties down to ten?

MR. COLE: I would agree with that. And I can only say that my

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client, Artisys Corp., is fully qualified and able to perform the subject contract.

COMPTROLLER FRANCHOT: Thank you, and I assume many other companies on that list are also, like Artisys. So thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Can you address the decision on ten?

MR. CHURCHILL: Our system is set up to have pools of contractors. And we thought of course it was the decision that ten, a pool of ten contractors would be more than enough. And of course, when you put out a solicitation, you don't know how many folks are going to respond. This one received overwhelming response and our procurement rules are so that once you prescribe how you are going to do the evaluation publicly, you are at risk when you change that.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

MR. CHURCHILL: So we are locked in at this methodology. Because to do so means we have to throw it all out and potentially start again. And this procurement, like many, took a very long time to put together. We put together the evaluation teams, which were put together over three departments, and then have to go and look at how many evaluators that had to read every proposal and make their determination, come up with a consensus to down list, and then look at the financial proposals and then go back to consensus again. So it's not just picking the winners and losers. There is a very solid procurement methodology that we stand on with this procurement.

And to Treasurer Davis, because I never want to leave a question unanswered, you had asked about how many MBEs and SBEs are a part of this proposed pool. We have four MBE contractors. They include 4A, Elegant, Infojini, and Momentum, and we have one small business noted as Innosoft in this pool of ten contractors.

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TREASURER DAVIS: If I can --

LIEUTENANT GOVERNOR RUTHERFORD: So 40 percent.

TREASURER DAVIS: If I can, Governor, and I know that's not the intention, but for me I think what is starting to get lost in this discussion for me, and I know it's not intentional, it's not just about the money part of it, who is going to get paid and who is going to make money and who didn't get to make money. That's important. But that's not the overriding concern for me, if I'm being perfectly honest. Because I saw what happened with the Department of Health a little while ago, a month or two ago. And we see what's going on around the country. My concern -- of equal concern to me, let me put it that way, is just how critical in your expert opinion, Secretary Ellington (Churchill), is this in terms of the necessity at this point in time? When we are talking about, we asked a question, my staff, about the legacy IT systems, for example, and there no longer being patches and updates and so forth. That's of importance as well, because we are in charge of sensitive data and things of that nature. And you know, when you have these little, I think they call them incidents or whatever, yes, that's embarrassing for any entity. But once you get beyond that embarrassment, you know, there are very real consequences to it. So I guess where I'd like to take this discussion a little bit, and I'm, you know, I haven't formed an opinion on it, I'm asking a question. And I get that, you know, this is your proposal so you guys are pushing it a little bit. But how critical is this that we need to do this at this time? And I'll leave it at that. How critical do we need to do this at this time?

MR. LEAHY: Thank you for the question, Mr. Treasurer. I think it is critical. When we established our strategy to create the DPMO and the agile teams contract, they were specifically to work in tandem for significant projects that would allow us to address shortcomings in our legacy systems, issues with

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regard to our network security, and equally importantly, and as the Governor has recently demonstrated a commitment to data management and privacy, addressing those issues that become more and more important to our citizens every day.

As the Comptroller stated this morning, much of the issue we face with fraud is simply because the wrong people have access to data and have the ability to utilize it in ways that are extraordinarily harmful to our senior citizens and to the weak and those least capable of defending themselves. So, you know, there are a number of agencies that have specific programmatic responsibilities. At the Department of IT, our job is to make sure they have the best tools to lower the cost of providing services and to be able to analyze those services to make sure they are actually doing the job they set out to do.

As I said at the beginning, we have had close to 300 requests, a number of which extended existing contracts which led to no competition and led to no modernization and no standardization of these processes, or the entire process was just deferred. The agency decided not to move forward. And some of the things that aren't moving forward deal exactly with the questions you have raised about patching and about addressing legacy systems. You know, we can say we're going to use a legacy system because it works. But the cost of maintaining it and the vulnerabilities that it presents are far more expensive as a risk management methodology than it costs to modernize these things. And you know, we have utilized the procurement vehicles available to us. We have taken to heart the statements by both the Comptroller and the Governor about our responsibility to competition and to dealing with these issues in the interests of the citizenry. And I am really proud of the work we've done and I'm sorry we don't see eye to eye, Mr. Comptroller. But thank you for your concerns. And I stand ready to talk to you about them any time you'd like.

LIEUTENANT GOVERNOR RUTHERFORD: Can I just, to

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address partly the Treasurer's question, it comes down to, as I mentioned to Mr. Cole a few moments ago, his appeal process, seeking remedy, is going to take at least six to eight months, at least. It could be longer than that. During that time, it means that we are not going to have the availability of these contractors to address an urgent need that may come up, as well as the plan to transition some of the contracts that are currently under an emergency contract to a contract where we did get competition. So there is a, there is a policy element on the competition side, because this is a secondary competition that is taking place, a legitimate secondary competition, as well as the policy side of do we really want to continue to extend contracts, either extend an existing contract or having, you know, emergency contracts that we have been using and that the Board is not crazy about either.

MR. LEAHY: And just to clarify that point, it's not just urgent issues that will arise. There are dozens of urgent issues that would be responded to through this contract were we to have this vehicle available.

LIEUTENANT GOVERNOR RUTHERFORD: And still at the end of that eight months, they are going to get some type of closure, or at least initial closure. You know, subject to potential appeals, and then they are in Circuit Court, and that could be another year. So, but at the same time that we are waiting that eight months, we do not have these vehicles available to us.

MR. LEAHY: That is correct, sir.

LIEUTENANT GOVERNOR RUTHERFORD: That is the compelling interest.

COMPTROLLER FRANCHOT: Could I just ask why did it take so long to bring this before us, number one? Number two, why not use the regular CATS+ contract for these services? There were 99 bids on this contract from that list and that shows there are plenty of companies that thought they had

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the technical knowledge and the sophistication and the ability to handle this. And you didn't even open this up beyond the CATS+ list. Maybe there are new companies out there that are far better than who is on the list. And all of a sudden we end up with ten. Who decided ten and what did you, you know, rather than 15 or rather than --

LIEUTENANT GOVERNOR RUTHERFORD: I think the Secretary answered that question.

COMPTROLLER FRANCHOT: Who did? Who decided it?

MR. CHURCHILL: It was part of looking at the program, and (indiscernible) at the time that we decided ten, but that's a decision that we routinely do. We say we need five, just like if you --

LIEUTENANT GOVERNOR RUTHERFORD: State Highway does that all the time --

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: -- State Highway contracts --

MR. CHURCHILL: Contracts --

LIEUTENANT GOVERNOR RUTHERFORD: -- contract vehicles, it's done. We see it every week. I mean, you see it every two weeks sitting here. I see it every two weeks because I review the agendas. It's --

MR. CHURCHILL: -- another --

LIEUTENANT GOVERNOR RUTHERFORD: -- modern procurement --

COMPTROLLER FRANCHOT: -- asphalt is a little bit different from software.

MR. CHURCHILL: I understand.

COMPTROLLER FRANCHOT: I'm there. But I hope that --

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MR. CHURCHILL: Let me just add this frame of reference. And that is this is going to have secondary competition, which means we have to bring it back to the Board. The procurements that are proposed in the pipeline are of an urgent nature. I would say it's as you have seen here, when you have 99 respondents, and you have to do a technical evaluation of those responses and put together, it takes a long time to do that. And I would, I mean, I would caution, I mean, having to, what that impact would be on the procurement department if you would have to routinely review 99 proposals from a technical response and a financial response. We would, the system would slow down.

COMPTROLLER FRANCHOT: It's a fair (indiscernible), I'm happy to vote for more funds for your procurement staff.

LIEUTENANT GOVERNOR RUTHERFORD: No. That's -- listen, you don't go through 99 proposals every time that you are procuring something. That's just, that's unworkable.

COMPTROLLER FRANCHOT: I don't know --

LIEUTENANT GOVERNOR RUTHERFORD: No one does that. You --

COMPTROLLER FRANCHOT: -- it sounds like competition to me, but I could be wrong.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah, but competition is --

COMPTROLLER FRANCHOT: -- ability to bid, which apparently some don't, but a lot do and they aren't included here.

LIEUTENANT GOVERNOR RUTHERFORD: They bid but that doesn't mean they were qualified.

COMPTROLLER FRANCHOT: They --

LIEUTENANT GOVERNOR RUTHERFORD: And --

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MR. CHURCHILL: Sir, they were evaluated --

LIEUTENANT GOVERNOR RUTHERFORD: And ranked.

MR. CHURCHILL: -- and ranked. And we made, the over/under line was ten. Now we can talk about the next time should it be 12 or 15 --

LIEUTENANT GOVERNOR RUTHERFORD: And the CATS contract opens periodically, that you asked about --

MR. LEAHY: It's open all the time, now --

LIEUTENANT GOVERNOR RUTHERFORD: -- that there --

MR. LEAHY: -- Governor.

LIEUTENANT GOVERNOR RUTHERFORD: Yes, just like Schedule 70, that you can always get on the list. It's just, it's a license to hunt. It's not guaranteed that you are going to get work.

COMPTROLLER FRANCHOT: I have a lot of respect for Secretary Churchill, and even Secretary Leahy.

LIEUTENANT GOVERNOR RUTHERFORD: Even?

MR. PORTS: Even?

(Laughter.)

COMPTROLLER FRANCHOT: I'm very reluctantly going to vote no because I just think this is a bridge too far.

LIEUTENANT GOVERNOR RUTHERFORD: Mr. Treasurer, you are the deciding vote.

TREASURER DAVIS: I am going to vote yes.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. LEAHY: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: I don't know if we need to take this separate? I guess we do, because we have to record --

COMPTROLLER FRANCHOT: Yes, thank you.

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LIEUTENANT GOVERNOR RUTHERFORD: -- so we have two yeses and a no on Item 39-IT. Okay. Thank you, Mr. Secretary. I want to go back to 30-IT and I think this was an item that came back from the last Board meeting. It's the State Board of Elections, the pollbook system.

MR. CHURCHILL: We have Linda Lamone available for, and her team to answer --

LIEUTENANT GOVERNOR RUTHERFORD: Executive Director for life. Is Ms. Lamone on?

SECRETARY GONTRUM: Yes, Governor, Deputy Administrator Charlson.

MS. LAMONE: Good morning, this is Linda Lamone.

LIEUTENANT GOVERNOR RUTHERFORD: Good morning, if it is still morning. My question really goes more to, I'm using this, I'm following the Comptroller's method of using this to talk about something else. I want to go back to the January 5th item, which was at that time 30-IT-MOD, which was modification of software associated with the voting system environment. And my question is, because that modification would expire at the end of March of 2023, which I won't be here. The Treasurer might be here in a different position, I mean, the Treasurer will be here. The Comptroller might be here in a different position. We'll see.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: He may be here. But my concern is that you will be back here, probably you because you have a job for life, probably be back here in 2023 asking for another extension of this very same contract, arguing that we have an election in a year and don't have time to be able to put in a new system. This is a contract that was \$10 million at one point. I think it was four years ago, five years ago, seven years ago, and it's now

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up to \$54 million, projected to be \$54 million. And so the question really is, are you in the process, are you planning to update or upgrade this system? That's the first question. Are you planning to update or upgrade this system?

MS. LAMONE: Governor, good morning. Linda Lamone, Administrator of Elections, and I have with me Nikki Charlson, who is the Deputy. The current contract for the voting system ends March 31, 2023. That's what you all approved --

LIEUTENANT GOVERNOR RUTHERFORD: That's what I just said, yes.

MS. LAMONE: Okay. There is one option for this contract remaining that gets us through the 2024 election, and we expect to exercise that option. And then --

LIEUTENANT GOVERNOR RUTHERFORD: Well, but you may expect to, but that doesn't mean the Board will approve it.

MS. LAMONE: Oh well --

LIEUTENANT GOVERNOR RUTHERFORD: You know, my point is, and I'm getting to, is that if you are at some point and should at some point upgrade this system, you need to be working on it now. Because there is an election every two years. And so to sit there and say, well, we don't have time because the next election, you know, November is the next election and then you get to a couple of months and you say, well, we've got another election in 18 months and we don't have time, that this will go on to the year 2100 or so. So if there is going to be an upgrade there needs to be the evaluation process started now looking to the future so that you are ready for 2024 versus saying, well, we are going to just, you know, push this contract through 2024 because we know that there is an option. But you have to come to the Board and you're going to say we want to go through the option for the next period to get us through the next

election. But then after that, you are going to be extending again. So what is the plan in terms of upgrading? Someone should be putting in their plan when this is going to be an obsolete technology. It has been in place for seven years. When is it obsolete and when are we going to start that process of upgrading? You know, the, for Transportation there is a five-year capital plan there, capital planning and budgeting. There is a five-year plan. I would think that you are talking to the Information Technology Department about planning for the upgrade versus every 18 months or so saying we're going to just extend this because we've got an election coming up and the system works. You know, put off competition and updating and upgrades.

MS. CHARLSON: So this is Nikki Charlson. Thank you for the opportunity to respond. We are looking to implement a new system in the 2026 elections and we will be starting that procurement process. Our estimate is typically it's a two-year process. That's our past practice. The current voting system is working very well. We have been using it since 2016 and we perform full audits after each election and it continues to count well. And so we do have a plan to implement targeting in 2026, and then we will be backing into that process of when to start the procurement. But do, as Linda said, expect to exercise the option in 2024 since it is working well and the market is not a whole lot different than what it was when we procured this back in 2016 so would like to give the market a few more years to see if there is new technology that comes along, but also enable us to plan for the next two elections knowing that 2026 is our target.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Well, I'm glad to hear that you are at least planning and I think it's a challenge to assume that you will get the option. But that will be something for the Treasurer and possibly someone else to deal with when you come back for your option year. Now, of course I will be listening to these programs and be the cranky constituent

and will be coming in to testify. I'll be on the testimony list because everything will be live at that point and I'll be testifying about this and slamming the, you know, the microphone and hopefully not my cane on the floor.

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: Or my walker about that. Okay. Thank you. Any other questions for General Services?

SECRETARY GONTRUM: Governor, I will just say, your question about the grant to the Energetics Technology Center, we do have a Mr. Gene Lauer available from the organization if you wanted to hear more about the grant?

LIEUTENANT GOVERNOR RUTHERFORD: I know the Comptroller is getting tired. But yes, I would like to hear about that.

SECRETARY GONTRUM: Mr. Lauer, are you present?

MR. LAUER: Yes, I am. Can you hear me?

SECRETARY GONTRUM: Yes, sir.

LIEUTENANT GOVERNOR RUTHERFORD: Please introduce yourself.

MR. LAUER: Hi, yes, Gene Lauer, Energetics Technology Center. I think, Lieutenant Governor, you had asked about whether this was a public-private partnership of sorts. Yes, we, the Energetics Technology Center is a nonprofit contractor and we are a partnership intermediary with the Army Research Lab at Aberdeen Proving Ground. And under the, it actually is a federal designation and we exist to facilitate relationships and work and collaboration between industry, small business, academia, and federal labs, of which the Army Research Lab is one of them.

This is a robotics venture that the Army Research Lab is doing and this infrastructure, of which we are a partnership intermediary for, will allow

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outside collaborators, industry in Maryland, academia, University System of Maryland is already involved, has an agreement with the Army Research Lab to sort of head a lot of this up, will allow these outside entities to take full advantage of the capabilities that exist there. But in order to do that, because many of the things will not have clearances, they can't use the DOD network. So we have to install a private network to allow all of these collaborations to occur and it needs to be of the highest quality and bandwidth in order to truly make this a premier robotics collaboration effort.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Well, thank you. Thank you for hanging around or coming back, whatever. But yes, I just was a little surprised when I saw it and I was trying to understand, and I thought that it probably was a public-private --

MR. LAUER: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: -- and to collaborate you have to be outside the fence for security purposes at Aberdeen. So thank you very much. Thanks for what you are doing. And as you know, it was already approved. Thank you.

So on the DGS Agenda, did we take care of that? We had the separate vote, and then the rest. Do we have a motion to approve the remainder --

COMPTROLLER FRANCHOT: I made that motion.

TREASURER DAVIS: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: And seconded? Okay. So we're all in favor.

SECRETARY GONTRUM: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you.

(Whereupon, at 12:15 p.m., the meeting was concluded.)