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

September 16, 2015
10:01 a.m.

PRESENT

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PROCEEDINGS

GOVERNOR HOGAN: Good morning.

AUDIENCE: Good morning, Governor.

GOVERNOR HOGAN: First of all, I want to thank everyone who donated at our State House blood drive and bone marrow registration yesterday. It was the first time we had the blood mobile out here from the Red Cross. It was tremendous. We had such a great turnout they had to extend their hours. And I want to thank all of the State employees and others who participated in that. And I also want to thank our partners, the Red Cross, Delete Blood Cancer, and There Goes My Hero. They all did a great job volunteering.

We had, we got the chance to spend some great time on Sunday with brave children from the Cool Kids Cancer Campaign at the Redskins game. I can tell you the kids had a blast. They got a standing ovation down on the field from 90,000 people, which was quite a thrill, and they met some players.

And tonight we're teaming up with the Baltimore Orioles to host another group of brave childhood cancer patients from the Ronald McDonald House and the other folks from Leukemia and Lymphoma Society. And I want to encourage everybody to come out to the Orioles game tonight against the Red Sox. It's going to be a great, beautiful night. It's going to be a lot of fun. The first 25,000 people are going to be given one of these green Hogan Strong

Lymphoma wristbands. The Orioles are going to generously donate \$50,000 to these two cancer organizations. Anyone who comes and makes a donation of \$10 gets their, gets that taken off their ticket, they get half price tickets. And we're going to have I think 150 cancer patients. We're going to take the kids down on the field to meet the players and it's going to be really, really cool. So if you're not doing anything on a beautiful night, come out and support the Orioles and the cancer kids.

And I don't want anybody getting upset about us going to the Redskins because we're not leaving anybody out. The Ravens are also doing exactly the same thing for us at their opener at M&T on September 27th. So we're covering all the bases.

You know, going through my own treatment I can tell you I've witnessed incredible strength from some really tough kids and others who are going through a much stronger, much harder fight than I have. And it's really, it's really been encouraging to me. But I can't help but be appreciative of all the people that are involved in the treatment of these folks, the families, the people who are going through it. And I'm going to continue to do everything I can to fight these terrible diseases and fight to bring and help raise awareness. So I want to thank everybody for everything that they've done to help us with that.

At our last meeting Secretary Moyer, Department of Public Safety and Correctional Services, presented a plan to streamline and consolidate

Correctional Services at their human resources department. We were trying to ensure the integrity of the hiring processes so we could do a better job of preventing criminals from being hired. The Secretary's original proposal to this Board called for a few employees to be separated from their jobs. We heard passionate testimony from a couple of those employees and we were moved by their stories and their commitment to their jobs. The Comptroller, the Treasurer, and I all unanimously agreed that we should table that proposal and we asked Secretary Moyer to go back to the drawing board and try to find a better solution. After that meeting I'm happy to report that they brought all the stakeholders together, they had multiple meetings, and all sides did come to a great compromise. I'm pleased to announce that we really did find a terrific middle ground.

We have devised a compromise plan that allows us to move forward with the much needed human resources restructuring without any job losses. Furthermore, the compromise allows the department moving forward to be able to fire bad actors who commit serious crimes, which could not be done in the past because of the union contract with AFSCME. We had a couple of hundred people who committed crimes who couldn't be removed from State service. So we now will be able to do that in the future.

So this is an example of a win-win-win situation and I want to thank everybody involved and all of their hard work in finding this great solution.

Lastly, and certainly not least, we are honored to have with us today Mr. Tim Hyman and his family. Tim, we'll ask you guys to come forward and step up to the podium just for a second.

Tim is retiring from the State Highway Administration after 66 years of service.

(Applause.)

GOVERNOR HOGAN: Sixty-six years, and as a staff photographer at the State Highway. And let me tell you, for the record Tim is the longest serving State employee, and he has never taken a sick day in 66 years.

(Applause.)

GOVERNOR HOGAN: Tim's career began when SHA was known as the State Roads Commission, and his service spans every Governor since William Preston Lane. His very first assignment was to document the construction of the Chesapeake Bay Bridge, named after William Preston Lane, the first Governor that he served under. Since that time Tim has captured on film the history of Maryland and many milestones, which I think we're going to be putting up on the screen here. You can see some of them as they go by.

Tim took his most famous picture in November of 1963 when President John F. Kennedy joined Governor Tawes at the ribbon cutting ceremony for Interstate 95. It was President Kennedy's last official appearance before he was assassinated, and Tim took that picture.

Tim's work captured more than just phases of particular projects, but of his fellow Marylanders who built them. Tim, we're very lucky to have you with us, and to have you with us all these years. On behalf of the citizens of Maryland, I want to thank you. I want to maybe have you just take one more photo, that's with us up here --

(Laughter.)

GOVERNOR HOGAN: -- as I present you with a proclamation honoring you for your 66 years of service to the State. So come on up here and get a picture with us.

(Applause.)

GOVERNOR HOGAN: Do you want to bring your family up? Your family can come up too.

I'm so proud of you, Tim.

COMPTROLLER FRANCHOT: What's your secret? What's your secret?

GOVERNOR HOGAN: What's your secret to success, Tim?

MR. HYMAN: Ignoring everything.

GOVERNOR HOGAN: Ignoring everything.

(Laughter.)

GOVERNOR HOGAN: That's great advice.

(Applause.)

GOVERNOR HOGAN: You need a book. Let's publish a book.

Let him -- oh, the flags, okay. Here, hold on to this, Tim. I'm going to be presenting you with this.

All right. Thank you, Tim. Congratulations.

(Applause.)

MR. RAHN: So Governor?

GOVERNOR HOGAN: Well, that is incredible.

MR. RAHN: Governor? If I could?

GOVERNOR HOGAN: Yes, sir, Mr. Secretary?

MR. RAHN: When Tim informed me he was going to retire September 30th, I had asked him, I said, wouldn't you consider staying just a little longer? And his answer was no.

(Laughter.)

GOVERNOR HOGAN: Well, I admire Tim. But I can guarantee you I'm not staying here 66 years.

(Laughter.)

GOVERNOR HOGAN: I asked Tim, you know, or the Comptroller asked him, how, what's your secret? And he said just ignore everything.

(Laughter.)

GOVERNOR HOGAN: I like that. I read the *Baltimore Sun* editorial today. I'm just going to ignore that.

(Laughter.)

(Applause.)

GOVERNOR HOGAN: Now let me turn to my colleagues for opening remarks. Madam Treasurer?

TREASURER KOPP: Well, Mr. Chairman, Governor, Mr. Chairman of the Board of Public Works --

GOVERNOR HOGAN: I like that, Mr. Chairman. It has a nice ring to it.

TREASURER KOPP: I, on this beautiful spring day, the beginning of the New Year for some of us, I hesitate to take, but will take a moment just to remember a couple of people who passed who were really important to the State and to the State House. And it really is quite shocking, but I don't think it should go without notice, the first, our former colleague Jim Proctor, a gentleman Delegate from Prince George's County, with whom both the Comptroller and I served on the Appropriations Committee. A man devoted to his constituency and to his committee, he was always there at a tough moment with a, you know, a friendly guide to the chicken soup for the soul. And devoted to not only his county but to the people of the State and the workers of the State of Maryland. He was the Chair of the Joint Pension Committee and knew that issue

backward and forward. And a very dear friend and a very, very close friend and a dear colleague. And we will miss him.

The other one was even more shocking to me. I remember Steve Kreseski, when he came it seemed to me he was about 18 years old when he first showed up on the second floor here and was a wonderful link between the Legislature and the Treasurer's Office and the second floor, Governor Ehrlich's Office. Steve was the sort of chief of staff who brought everybody together and helped solve problems. At least as far as I could tell, he was always there with help, with a little prodding, and a little see it our way. But in the most gentlemanly and kind and persuasive way I can imagine. And when I opened the newspaper and saw we had lost him, I found it truly shocking. I realize it had been some years since I had seen him, first on Capitol Hill right before they came to Annapolis, the Governor and, Governor Ehrlich and he. But time has passed. And I for one, and I think many, many, many of us who had the opportunity to serve with Steve, albeit for a short period of time in Annapolis, will truly miss him. But continue, as with Jim, to think of them with smiles on our faces. And that's a good way to think, and I thank you.

GOVERNOR HOGAN: Thank you. And Governor Mandel, as well.

TREASURER KOPP: Of course.

GOVERNOR HOGAN: It was a tough month. In between hospital stays I spoke at three different funerals, both at Steve Kreseski's, Governor Mandel's, and Keiffer Mitchell, Sr. Keiffer is, you know, a valuable member of our staff and a former legislator and City Council member. And we lost a lot of great ones.

But with that, thank you for mentioning Steve. I appreciate the kind words. And Delegate Proctor as well. Our thoughts and prayers are with he and his family. With that, I'll turn it over to the Comptroller.

COMPTROLLER FRANCHOT: Thank you, Governor. Madam Treasurer, good morning. And Governor, I can pretty much guarantee that as much as those 90,000 fans at FedEx Field for the Redskins game were applauding those brave kids that were out there, they were also applauding you. Trust me. And thank you for the way you are galvanizing public opinion on an important issue.

GOVERNOR HOGAN: Thank you.

TREASURER KOPP: Mm-hmm.

COMPTROLLER FRANCHOT: But just to get back to something outrageous, since I think the meeting is getting a little bit sentimental here let's --

(Laughter.)

GOVERNOR HOGAN: Thank you for getting us back to outrageousness.

COMPTROLLER FRANCHOT: Could I --

(Laughter.)

GOVERNOR HOGAN: We're sorry we were so serious, we're going to get back to outrageousness now with the Comptroller.

COMPTROLLER FRANCHOT: So I want to bring up the subject of the Baltimore County School System and the issue of air conditioning in the 52 schools in Baltimore County that either have no air conditioning or only partial air conditioning.

Fifty-two schools, making classrooms unbearably hot this time of the year, creating a learning environment that is inhumane, unsafe, and unhealthy. And I'm not exaggerating. Go and visit these schools. Dulaney, where the Lieutenant Governor was yesterday. Kenwood.

Just a few days ago I met with a group of parents and teachers from Kenwood High School. That's in the Essex/Middle River area of Baltimore County. Over pizza and soda at Squire's Italian Restaurant in Dundalk they shared their frustrations and told me stories that were quite frankly horrifying about the past few weeks. Students said that they frequently feel dizzy or faint, suffer from migraines, and painful headaches. Ninety-eight degree temperatures in the classrooms. They find it extremely difficult to concentrate in overheated and in many cases overcrowded classrooms. They try to cope by bringing water bottles to school to keep cool and stay hydrated, but with the classroom

temperatures in the upper nineties the water warms up too quickly. Trust me. They said they bring a frozen water bottle to school in the morning, but before they can really use it properly it's melted.

One teacher said it was so hot one day that the batteries in the remote for her classroom projector melted. A young woman told me she would rather go to prison to learn, because at least prison classrooms have air conditioning.

I also heard from parents who expressed a sense of helplessness that their children are suffering and they can't do anything about it. This has gone on way too long. Those of you that have been at these meetings understand that I have taken a long time interest in this issue. But I am committed to finding a timely solution. That's why we will be holding a town hall meeting on Tuesday, October 6th at 6:30 p.m. at the Arbutus Town Hall. It will be the first of three meetings. Two more are being planned for the east side of the county and in the Towson area. Students, teachers, staff, and concerned citizens will have the opportunity to share their experiences, concerns, and frustrations.

Frankly, I can't believe we're still talking about this issue. Since 2011 I've been hearing the same excuse from the Baltimore County School System, that they don't have the financial resources to purchase portable air conditioning units. Keeping that in mind, I would like to share some information with you. Over the past six years Baltimore County has received nearly \$27

million for renovations, repairs, and improvements to existing school buildings. Bearing in mind that they had complete control over how these funds were to be spent, they choose to use only a small fraction of it to air condition their schools. This money is in addition to, and not part of, the \$269 million that Baltimore County has received since 2011 through the State's Public School Construction Program's various pots of money.

Clearly it's not a question of resources. It's a question of leadership, management, and priorities. Twelve years ago neighboring Anne Arundel County, we're in right now, faced the same issue that Baltimore County has and they solved the problem by installing portable air conditioning units in all of their classrooms giving the school system time to install central air while keeping students and teachers comfortable. I've mentioned this to the Baltimore County School System repeatedly. They seem completely disinterested in dealing with this problem.

This has to change. I have a message to the families, students, teachers, and staff members who are suffering out there, and I have a message to the school bureaucrats who don't seem to care: it will change whether we have to do it the easy way, or the hard way. Because we have good people out there in Baltimore County, folks like Jen Tarr, Yara Cheikh, Valerie and Dan Radonsky, Denise Avara, Lily Rowe, who are never going to stop fighting for these kids who come home after school and have to sit down and wring the sweat out of their

socks while they talk to their parents about the headaches. Or frankly for the teachers, who faint, or for the public health experts who are appalled at the condition of the air inside these schools. And now thankfully we have a Board of Public Works majority that's going to put the safety and health of our kids over the prerogatives of the education bureaucracy.

So my message for Baltimore County is hang in there, help is on the way. Governor, thank you for everything --

GOVERNOR HOGAN: Elbow them.

COMPTROLLER FRANCHOT: Yeah, because --

GOVERNOR HOGAN: Well, thank you, Mr. Comptroller. I couldn't agree more. I mean, it's an absolutely disgraceful and unacceptable situation. You know, we have record funding increases, record school construction money, never spent more money in the history of the State on education, and we've sent hundreds of millions of dollars more. There's no excuse to not get these air conditioners fixed. I'd like to maybe see if we can't help participate with you at the Town Hall in Arbutus. But I also think we ought to call the Chairman of the School Board, the Superintendent of the School Board, and County Executive Kamenetz before the Board of Public Works at the next meeting to get some explanations from them about how they can allow this to continue.

COMPTROLLER FRANCHOT: Tell them to make sure they have a good cup of coffee. Because --

GOVERNOR HOGAN: Let's bring them up for the next meeting. Now let's turn to get started with the Secretary's Agenda. Secretary McDonald?

SECRETARY MCDONALD: Good morning, Governor, Madam Treasurer, Mr. Comptroller. We have 19 items before the Board on the Secretary's Agenda. There are four reports of emergency procurements. We are prepared for your questions.

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

COMPTROLLER FRANCHOT: I just want to mention that Item 17 is money from the State to the Volunteer Fire Department in Branchville that I visited. It's a great organization. I'm delighted that the State is helping them with the purchase of a new, a new engine. It's in Prince George's County, for folks that haven't been there.

GOVERNOR HOGAN: Wonderful. As Tim is leaving the room, thank you and your family for being here. Congratulations. Let's give him another round of applause.

(Applause.)

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

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing, motion carries.

Move on to the DNR Real Property Agenda.

MS. WILSON: Good morning, Governor, Mr. Comptroller, Madam Treasurer. Emily Wilson with the Maryland Department of Natural Resources. We have 17 items on our Agenda today and I'd be more than willing to try to answer any questions that you may have.

GOVERNOR HOGAN: Thank you, Emily. Any questions on the DNR Agenda?

COMPTROLLER FRANCHOT: If I could, just Item 5. I noticed that that's a grant to Urbana District Park. And I just wanted, that's a park that I also toured and it's really a fabulous facility. Great amenities, thank you.

MS. WILSON: It's a, yes, it is an absolutely fantastic 95-acre regional park in Frederick County. Frederick County does an outstanding job. We have a great relationship with their Parks and Rec Department, Paul Dial has been wonderful with whom to work. And this is just a fantastic amenity for the county.

COMPTROLLER FRANCHOT: Okay. But I have one other question on an item we passed several months ago, on June 17th?

MS. WILSON: Yes, sir.

COMPTROLLER FRANCHOT: We approved the purchase of a piece of land up at Deep Creek Lake for a public access. We paid I think a million dollars or so for that. And since then -- we approved it, so I'm not asking that it be brought up again obviously. But I have heard from some people I have a lot of respect for who own second homes out at Deep Creek Lake that that is getting tremendous criticism for three reasons. Number one, nobody at Deep Creek claims that they knew about it. You can take that with a grain of salt. Number two, that we paid double what the land is worth. This is from a very experienced realtor who is, happens to, you know, be a friend of mine, who lives, has a home out there. She said, please, come out and buy my lakefront cottage for a million dollars. Because that property wasn't worth a nickel over \$500,000. And take that with a grain of salt. Then they said the rumor is that there was some well connected person who was involved in the whole thing. And finally they are very concerned that there is not going to be proper DNR supervision of the boat launch and that people will bring boats in with all sorts of, you know, foreign substances on them that will damage the Lake.

MS. WILSON: Okay.

COMPTROLLER FRANCHOT: So that's, I just throw that out and wonder if you have any response to any of that?

MS. WILSON: Absolutely. Thank you. We actually follow a very structured framework in terms of acquisitions. And that structure includes

the law and regulation. And in this case we were entirely within that framework. Natural Resources Article 1-109 requires that we procure two independent appraisals. That of course was done in this case. We procure appraisals from folks who are certified in that industry and expert in the industry. In many cases these are small and can be minority businesses across the State.

We have a review appraiser on staff whose job it is to review the appraisals that are obtained from the independent appraisers for accuracy, form, content to make sure they used the correct comparison approach, and to also make sure that it followed industry standards, uniform standard of appraisal practice which is the uniform standards for the appraisal industry across the State.

In this case those, these appraisals did follow all of those standards and the two values were deemed appropriate. The values are based on fair market value, and that includes obtaining comparables from that area. And in this case those comparables were entirely adequate. They included lakefront lots in this area and were based on sales that had recently occurred in that timeframe. So these appraisals were found to be acceptable and those appraisals are what we used to base our negotiations.

In terms of the public process, we, up and to the point before negotiations it's a procurement process. So we procure appraisals. We procure title work. And we will procure surveys. At that point when we begin

negotiations, it's actually a business transaction. And the statute refers to the State negotiating for land acquisitions. The term negotiate is in there.

We need to be very careful about leading up to the Board of Public Works timeframe in terms of opening up a public process because that could unduly influence the asking price of properties. Having said that, there are also requirements in the statute, again in Natural Resources 1-109, that we provide public notice to the legislators in that district at least 40 days before an item is brought to the Board of Public Works. That was done in this case. It was actually done more than 40 days in advance of the Board when it was scheduled. In addition to that the Board of Public Works actually puts up the entire text of Board items generally about ten days before the Board date. So those are always available and I know that we have had citizens see those items on the Agenda and call, inquire, so forth.

Also having said that, we are still in a contract period at this point in time. And we need to be mindful of any potential for contract interference in terms of having a public process before we get to the Board of Public Works. Because as I said, this is a real estate negotiation, it's a business transaction.

Once a property goes to settlement and we actually own that property, and we have not gone to settlement in this case just yet, the public process certainly takes place. And any kind of plans for that property will absolutely be subject to a very open and very public process. I can promise you

that. I can assure you that. And I know that our Secretary can promise you that. He has said that over and over again in response to several constituent concerns related to that.

In terms of the aquatic invasive species issue and the concern for that, I can say that at this point in time at the boat launch at Deep Creek Lake in specific, we do have signage that is posted all around that boat ramp, that public boat ramp. In addition to that we do have folks on staff that are educating boaters as they enter that public boat ramp, disseminating information, and checking the boats for any sort of invasives or anything that's attached to that boat before it goes into the Lake. In addition to that we have a public education campaign on our website where we have a great video from one of our staff persons that talks about what you can do to minimize the introduction of aquatic invasive species. On top of that there was a bill this past legislative session, House Bill 860, that deals with the mandatory inspection of boats at public boat facilities. And that takes effect April 1st of 2017. However, also in that bill is a work group that the department was required to convene, which we began meeting monthly in June with different stakeholders and experts in terms of boat cleaning and minimizing aquatic invasive species. So as I said, they've been meeting since June on a monthly basis to come up with different strategies and recommendations as to how to implement the provisions of this House bill and to, you know, have a better, broader educational campaign statewide at public boating facilities. And

their report is due December of this year and they are on track to have that report complete.

COMPTROLLER FRANCHOT: So does the public hearing, that's going to happen?

MS. WILSON: Once the property is settled then any plans for that property there would be, yes, there would be a public hearing.

COMPTROLLER FRANCHOT: So what is the status right now? It has not settled?

MS. WILSON: No, we have not settled. We are still finishing up and completing due diligence.

GOVERNOR HOGAN: Thank you, Emily.

COMPTROLLER FRANCHOT: Well, let me just comment. I, you know, I'm not an expert on the process. But listing it on the Board of Public Works Agenda is completely inadequate as far as alerting people to come down and speak to us about it. I guess we're the only recourse that they would have had. And, you know, thank you for the appraisal situation, come on down and check the Governor's Mansion out too if you have expertise in that area. But you know, this, I'm not --

GOVERNOR HOGAN: It's not worth as much as it used to be because there's no furnishings.

COMPTROLLER FRANCHOT: Yeah. I'm not, I'm not happy as far as this situation. I don't know what we can do about it. But I'll ask our excellent staff to, since it has not been consummated, whether that's something you want to move forward with before you have a public hearing. Because the public is very upset. And I don't think it's going to be a great hearing if you've already consummated the deal.

MS. WILSON: Well but we also have to keep in mind that any plans for that property would take place once we owned it. So that's, you know, the reason for, and frankly there may not be specific plans, you know, in the immediate future. And again the Park Service will be intimately involved in any public process that we will have.

COMPTROLLER FRANCHOT: Yeah. Well, I'm less concerned with the after effect and I'm more concerned with the State's payment for this in the face of people saying that had they known about it they would have objected. We just went ahead and approved it because we thought it was whatever.

Anyway, the Governor mentioned the editorial in the *Sun* today. I don't know whether anyone had a chance to read that, switching subjects? But that was one of the most amazingly misdirected criticisms I have ever seen. And someone, everyone out there ought to go and take a look at that. Because it is just a bunch of nonsense.

I applaud Governor Hogan for what he did with the Corrections employees. That was the subject of the editorial, saying how the Governor was mistaken in his handling of that issue. You know, I sat here for eight years on this committee, I mean on this wonderful Board. And I remember clearly the, another example where we closed the Upper Chesapeake Mental Health Center, over 100 employees we fired, threw out on the street, completely misrepresented the issue, did it for all the wrong reasons. And the Governor at that point, all of the anguished testimony from employees and individuals and citizens, the Governor up here was just tapping away on his blackberry. Didn't pay a whit's worth of attention to the testimony. And you know, treated the citizens with complete and utter arrogance. And this Governor, whose own agency was up proposing this reorganization, he sat there and listened. He actually listened in an adult, objective way to the people that were testifying. And, you know, seconded the motion to hold off on the action and go back and come up with a better solution. And for that, no good deed goes unpunished, the *Baltimore Sun* takes his head off in a really editorial full of nonsense. And I'm glad we have an adult. I'm glad we have someone that listens to what people say out there and who has respect for the taxpayer. And Governor Hogan, don't let the you-know-who get you down. Because you're a breath of fresh air as far as treating the taxpayers with respect, and thank you for that.

GOVERNOR HOGAN: Well, thank you, Mr. Comptroller. Tim's advice was just ignore everything.

(Laughter.)

GOVERNOR HOGAN: I thank you for the kind words. The good, the good news is that very few people read that newspaper anyway.

(Laughter.)

GOVERNOR HOGAN: Are there any other questions on the DNR Agenda? Is there a motion on the DNR Agenda?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Is there a second? It's been moved and seconded, three-nothing on the Agenda.

MS. WILSON: Thank you.

GOVERNOR HOGAN: Now we're going to move on to the DBM Agenda.

TREASURER KOPP: Governor, could I just put one thing in?

GOVERNOR HOGAN: Yes.

TREASURER KOPP: It's late, it has nothing to do with the last message. But under the Secretary's Agenda, I just have to put in a personal note. Over the weekend my sister and I went to see a movie called *Rosenwald*. And this Board and this State have preserved, gee, we had probably over 50 Rosenwald schools built in Maryland, a combination of the work of the Chicago

philanthropist, local African American community, and local white community, coming together to build schools where there had not been schools open to African American children before. And they worked and they led to the education of some truly outstanding Marylanders. And I just urge any of us who have been sitting through these meetings and hearing or seeing pictures of the Rosenwald schools which we have worked on to go, go see the movie if you can. Because it really is an eye opener in a way one person can impact by working together. Rosenwald and Booker T. Washington for a lot of it worked together to raise a generation out of very discouraging circumstances into leadership in the next generation. I had not planned to say anything. But this meeting reminded me of the many times that we've seen these pictures. It's one thing to see the picture and really to get, as they say, the rest of the story.

GOVERNOR HOGAN: Thank you.

TREASURER KOPP: *Rosenwald*. Julius R. Rosenwald.

GOVERNOR HOGAN: That's a plug for the movie, I think.

TREASURER KOPP: A plug for a movie, it is indeed.

GOVERNOR HOGAN: Thank you. Secretary Brinkley, first of all before he starts let me just say that Secretary Brinkley is not only doing an excellent job in trying to make the government more efficient and run more cost effectively, he's doing, he's a great Budget Secretary, but you know, he's a guy who has gone through a similar thing that I'm going through now. And he has

been just terrific, giving me great advice. I don't know if you read the *Washington Post* story on Monday, there was a front page story. But Secretary Brinkley said to me, I mean, there are times when I feel pretty bad. You know, I put a good face and I'm working hard out here, but there are times when I really get down. He said when you're feeling at your worst, just think about how bad that cancer feels. And I think about that every time. So I appreciate that advice, Mr. Secretary.

MR. BRINKLEY: Thank you, Governor. You look great. Keep up the fight.

GOVERNOR HOGAN: Thank you.

MR. BRINKLEY: Like I also said, there's no better time in history to be dealing with this. And there's no better place than Maryland --

GOVERNOR HOGAN: That's, we're lucky to be in the place, the best place in the world. We have the best doctors and the best treatment and the best hospitals. And I'm very happy to have that available.

MR. BRINKLEY: Thank you. Governor, Madam Treasurer, Mr. Comptroller, the department has submitted 20 items on today's Agenda and we have representatives here to answer any questions you may have. Item 1 and Item 4 have been revised. And Item 20 is a supplemental.

GOVERNOR HOGAN: Thank you, Mr. Secretary. I'd like to address if I could for a moment Item 7 through Item 12, which are DJS. Do we have a representative of DJS here?

MR. BRINKLEY: Secretary Abed.

GOVERNOR HOGAN: Mr. Secretary, good morning.

MR. ABED: Good morning, Governor.

GOVERNOR HOGAN: You know, I understand that these are retroactive contracts that you've brought before us and that they are part of a comprehensive review that the department has undertaken to analyze the entire procurement process. And can you just tell us briefly about the process that you are going through and what the department is doing to try to improve its procurement process?

MR. ABED: Absolutely, Governor, Madam Treasurer, Mr. Comptroller. Governor, when you took office, shortly after you took office you charged your cabinet, me and my colleagues in the cabinet, to review our procurement processes and our practices. And we have, and we embarked on a comprehensive review of all of our contracts as well as how we did business and how that office, the procurement office, was structured. We found that we had an inadequate contract tracking system. We found that we had inadequate controls over how those procurements were managed, and that we had a weakness, and weaknesses, in the system of review for those, for those operations.

On the tracking system we were only tracking dates so that when procurements were supposed to be brought back to, for either a new option year or for a new contract, we could track the dates but we weren't tracking the stages of the procurements. So the tracking system would alert us and tell us that, yes, you need to commence a new procurement. That would begin. And it would be, you know, marked that we started and we did it. And we may have done 99 out of 100 things but that last piece wasn't completed and we didn't have a system that could track each stage of the procurement to determine was everything done. And so we had some procurements that we found where one piece was missing. We may have had a signed contract but it wasn't sent to DBM, for example, and logged in through the approval path. Which is one, which is the last step but a necessary step for a proper contract.

We also had failures in the competence of some of our employees in terms of the work that they were doing and the controls. We had folks, essentially the fox guarding the henhouse. Folks that were in charge of these procurements were also the ones that were charged with reviewing the procurements.

So as a result we have put together a new contract tracking system, an electronic system, that we actually borrowed from DHMH and adapted to our needs, that will track the stages of the procurement so that we can have a system of feedback for each stage of the procurement and make sure that they are all

completed. We also have a contract management team. And this is a new team that we haven't had. They are independent from the procurement unit so we can eliminate those conflicts and any kind of incentive to conceal problematic procurements. And that unit is already up and running and they have already identified four additional problem procurements since they have become operational.

And we've increased the number of staff on the procurement unit so that we have adequate staff to complete the work load, and there is a considerable work load. And we've also used progressive discipline for those staff that have done egregious errors. As we found people leaving we had, we had one person terminated, another retired, a third person has had two steps of progressive discipline, and a fourth has resigned. And this is in a unit of seven people. We would go to their desk after they left and find things that they certainly should have alerted me to, because we were doing this comprehensive review, but they were sometimes concealing it, sometimes out of ignorance or incompetence. And so we have this independent unit now that is outside of that chain of command, so that there is not an incentive to do those sorts of things, combined with this electronic tracking system to look at the different stages of procurement, as well as looking at the expenditure side. Because we also found issues where a small procurement was done for a unique situation, then it was used again and again. And as you aggregate those numbers it becomes a large

enough expenditure that it should have been done as an RFP and brought to the Board of Public Works. So they are tracking the expenditure side as well.

And those are the things that we've implemented to try and eliminate these problems that have plagued the department for some time.

GOVERNOR HOGAN: Well, thank you, Mr. Secretary. I was going to congratulate you on all of your efforts. It's the kind of thing we want to do in every single agency and you are doing a great job. I know that the entire Board here wants to see improvements in the procurement process throughout State government and we're trying to take the initial steps. And I think you've come up with some great ways to do it.

The Comptroller and I, it's no secret that we complain at every single meeting about retroactive contracts and extension requests in order to complete new procurements. And you know, I'm very pleased that DJS is taking proactive steps to try to fix the problem.

MR. ABED: Thank you, sir.

GOVERNOR HOGAN: As you continue the process on this, please report to our office so that we can track some of these things and share some of it with other departments. Maybe touch base with the Lieutenant Governor and the Chief of Staff Craig Williams, and you know we can, and with DBM and we can kind of share some of the things that you are doing.

MR. ABED: Absolutely. Thank you, Governor.

GOVERNOR HOGAN: Thank you very much, Mr. Secretary.

TREASURER KOPP: Governor, could I just?

GOVERNOR HOGAN: Yes.

TREASURER KOPP: One of the problems, we've had many problems, too many, but one of the problems we've had over the years in contracting out is that we didn't have the monitoring staff to actually stay on top of the contracts once they were procured. And sure enough in your department and in other departments dealing with human services the next thing you knew there were some terrible tragedies and abuses. Will this separation of procurement and monitoring strengthen that type of monitoring as well?

MR. ABED: Well the monitoring that I'm speaking of is monitoring the contracts on the fiscal side.

TREASURER KOPP: Right.

MR. ABED: We have a separate unit that monitors the actual contracted partners for those human services. They --

TREASURER KOPP: And reports to you?

MR. ABED: It reports through the Inspector General's Office, which is a direct report to me. So that was one of the things I did several years ago, was to take those folks that did that monitoring and put them in a direct path to me rather than through the operations.

TREASURER KOPP: And are other agencies doing the same thing?

MR. ABED: I'm not sure how every agency is structured.

TREASURER KOPP: I want to urge you, I mean this is, it's one thing to contract out. It's like a P3. But we're still responsible. And time after time it's been --

MR. ABED: Absolutely.

GOVERNOR HOGAN: Yep.

MR. ABED: That is a, that's an issue that we are always concerned with. We have actually beefed up that unit over the years. We have also done something that I think is very innovative. We work with the Department of Human Resources and with the Department of Health and Mental Hygiene on those contractors that we share. They may be licensed by one or the other agency but if we are all using that same provider our quality assurance teams will go together, share their notes, so that we can have --

TREASURER KOPP: So there are several sets of eyes and they don't falter. It doesn't take long for a kid to be raped or whatever happens.

I also have to say that sometimes it really does depend on the people that, why I have always been such a bug on procurement training as well as systems to stay on top of the sort of thing you're doing. There are some people

who just oughtn't to be there. They are not anymore. And I commend you for that.

MR. ABED: Thank you, Madam Treasurer.

GOVERNOR HOGAN: Thank you, Mr. Secretary.

MR. ABED: Thank you, Governor.

GOVERNOR HOGAN: Any other questions on the DBM
Agenda?

COMPTROLLER FRANCHOT: I have a question on Item 2-S.

MR. BRINKLEY: Secretary Mitchell?

MR. MITCHELL: Good morning.

GOVERNOR HOGAN: Secretary Mitchell, good morning.

MR. MITCHELL: Good morning.

GOVERNOR HOGAN: Before, before you go with your question

--

COMPTROLLER FRANCHOT: Sure.

GOVERNOR HOGAN: -- I just want to compliment the Secretary here. You know, we're all focused on fiscal discipline. And more than any other agency in State government we asked them to go back and see what they can do about saving the taxpayers' money. And Mr. Secretary, you reverted a significant amount of money in the agency reversions, more than any other department. And I want to congratulate you on your efforts.

MR. MITCHELL: Well, thank you very much. I don't deserve the credit. It goes to the great staff that we have. That's the reason I wanted to come back. We have a lot of tremendous, hard working people at the Department of Health and Mental Hygiene. I'm very pleased with our new CFO, Allan Pack, who many of you know was at DBM. A very young, rising star, and I was able to bring him over in April and he has made a tremendous amount of difference.

Madam Treasurer, Mr. Comptroller, Governor, this to me is a no brainer. This is a contract for our dental award for our Medicaid population that was turned down in May of last year by the Board of Public Works and asked to go back and to solicit bids instead of a sole source. That's exactly what the Medicaid team did. When we came in in January, they briefed us on it. When I brought Shannon McMahon in, Deputy for Medicaid, we talked about it. We told them what the Board of Public Works wanted to see going forward. I've been in front of you the first couple of months with some unfortunately extensions and sole source. This is a scenario that was put forth. We got four bidders. Three were capable to go forward. And we're very pleased that we had three bidders that ranked. And the awardee created both one in technical and one in cost savings. It's a savings of about \$1.4 million to \$1.5 million over the first three years, plus the two option years would be more.

And let me just say for people that think that I have a \$12 billion budget, and that that's not much, or that it's inconsequential is what I heard

Friday, I take offense to that. Because every dollar we save and create creates, in the general fund, creates me opportunities to go to the fed for matches, whether it's 50-50, 75-25, or 90-10.

So I want to applaud the Medicaid team for the last year they started working on this, that saw this process through. And I think it's exactly what this Board of Public Works wants us to do. So I'll be more than happy to answer any questions.

COMPTROLLER FRANCHOT: So I have a couple of questions because there has been a lot of brouhaha around the town. Apparently DentaQuest has lodged a protest of this award. And we have received a number of calls and emails from concerned dentists across the State. So I hear what you're saying, and I appreciate the context that this is being presented. But I think we need to discuss the matter, if we could, in a little bit of detail.

MR. MITCHELL: Sure.

COMPTROLLER FRANCHOT: For example, as you noted, Scion, the Wisconsin based firm, Scion Dental, in addition to submitting the lowest bid also achieved the highest technical evaluation. And I just want to ask two questions here. What were the specific factors that went into the technical evaluation? And assuming prior experience was one of those factors, could you tell us a little more about Scion's prior history of delivering services of this magnitude to states that are, in states that are comparable to ours?

MR. MITCHELL: So since I wasn't involved in the process is it all right if I bring up Susan Tucker and Jill Spector?

GOVERNOR HOGAN: Absolutely.

COMPTROLLER FRANCHOT: Sure.

MR. MITCHELL: Jill was the person in charge of the --

COMPTROLLER FRANCHOT: Just for our listeners, this is, we're being asked to award a three-year contract with two one-year renewal operations to provide dental services for Medicaid recipients in the State of Maryland. And Madam Treasurer correctly noted that this is an area, among others, where you can have some serious problems if it's not delivered properly, I guess, would be the right word.

MS. TUCKER: And my name is Susan Tucker, I'm Executive Director of the Office of Health Services. And I'm well aware of the past history because I was the person who had to testify before Congress twice when Deamonte Driver passed away years ago.

COMPTROLLER FRANCHOT: Mm-hmm.

MS. TUCKER: I was also the staff person that was, worked with our Dental Action Coalition to come up with all of the reforms that we've made in the program. And so I take this very seriously. My team is totally committed to making sure children in Maryland get all the healthcare services they need and especially dental as well. And they have worked very hard on this project.

I just wanted to correct a few misinformation that I've been hearing from some of the dental community. There seems to be some misunderstanding about who owns the rules for the program. The rules are owned by the Medicaid program. And what I mean by that is the providers are in our network, not in a vendor's network. The vendor is doing a job for us to help us administer but the providers are our providers. We set the qualifications. We set the rules for payment. We set the rates. We set the rules for medical necessity. They carry it out on our behalf but none of those things will change.

The dentists that are in the network are already credentialed. They don't have to be recredentialed. So I just wanted to be clear that it's not like, it is true changing a vendor is always difficult for people because there's some change. But it isn't like they are not going to follow the same kind of billing procedures. They are all HIPAA compliant transactions that are standardized now across the country. And the providers already know how to bill HIPAA compliant fashion. So I wanted to say that.

I also wanted to say the RFP was improved from the first time that we bid it. I worked on both RFPs, writing them. The second RFP at your, at the Board of Public Works' request built in performance measures. It built in extra benefits for providers and families. We required damages if there wasn't timely payment or rapid claim response, rapid response to customer calls, rapid enrollment of new providers, increase in preventative and restorative services.

There are requirements for network adequacy. There are incentives built in to maintain and improve the provider network. So it's a better proposal and we were really pleased that we got four proposals and that three were susceptible to bid.

The committee measured each one of the vendors against all of the measures and they ranked on technical and they found three susceptible to bid, and then they went forward and opened the financials. Of the three that were susceptible it happened that the one that was the highest technically also was the lowest bid. So it made it an easy decision on the part of the committee. And then I'd be glad to answer any specific questions --

COMPTROLLER FRANCHOT: Sure, no, I have a couple of questions. And thank you very much, and thank you for your testimony years ago in Congress. It was excellent. But the, you mentioned the, well the Secretary mentioned the size of the cost disparity. And I think it's terrific if the State is obviously saving money. The question I guess I have is that are we sure that Scion can indeed deliver these services for the prices quoted in their bid submission? Or are we possibly setting ourselves up, remember that prison concession contract we all, well I was all enthusiastic about?

MS. TUCKER: Yeah. I mean, they do have a good track record of, they only work with Medicaid agencies. They serve eight million Medicaid recipients across the country. They are the lead DBA in four states. And so they

do have a good track record of providing services, paying dentists, enrolling dentists, etcetera.

COMPTROLLER FRANCHOT: Okay. Fine. Then I noticed that the winner is the highest, or the incumbent is the, was third ranked as far as technical ranking. In assigning a technical score to an incumbent like DentaQuest how much weight was given to their performance over the course of the existing contract? Can you shed a little light on how DentaQuest handled the current contract?

MS. TUCKER: So --

COMPTROLLER FRANCHOT: Because it's the technical ranking sounds pretty negative.

MS. TUCKER: So when a committee judges applicants, they judge them based on the RFP requirements. And so they took each group through the RFP requirements. It's, we don't separately judge based on whether a bidder is an incumbent. So we're looking at actually the requirements of the RFP and who best meets those requirements.

They, DentaQuest got a good. They didn't get a negative finding. They've been a good partner. But the other bidders did get higher technical and a lot had to do with their systems.

COMPTROLLER FRANCHOT: Okay. That's fine. I wonder is there an employee from DentaQuest who could come up and help me with a question about their bid protest?

GOVERNOR HOGAN: Yes, we actually have representatives from both sides. And I'm going to ask if we have one, decide on one person that's going to speak. We're not going to call up all six people to talk in the interests of time. So I would say one representative of DentaQuest can talk and one from Scion.

COMPTROLLER FRANCHOT: Okay. That's great.

GOVERNOR HOGAN: You guys can decide who that's going to be.

MR. JOHANSEN: Thank you, Governor --

COMPTROLLER FRANCHOT: So I have a question and you can obviously say what you --

MR. JOHANSEN: Mike Johansen, by the way, on behalf of DentaQuest.

COMPTROLLER FRANCHOT: Yeah. So apparently you folks are contesting this bid and claiming you've been treated unfairly during the process and procedural missteps and, I guess, and/or incorrect information, or flawed judgment in evaluating the bids. What exactly though are you protesting specifically?

MR. JOHANSEN: So there are several factors based on what we know at this time, and we have very limited information. In your Agenda item you see the scoring sheet that has technical one, two, three, and you see the pricing sheet. When we get a notice that says you've not been selected for award that's the only information we have as of that day. Frankly to see that the company was ranked third technically, last technically, was very, very surprising. It's the first time in any evaluation where we've competed against Scion, the other company, that we've been ranked technically lower so it certainly generated some concern. Secondly, since we thought we really understood Maryland's unique problems and how to do the work in Maryland, which we believe we reflected well in our proposal, we thought we certainly answered all the questions because we knew, you know, how the work was happening here.

The only other piece of information, Mr. Comptroller, that we received that has been allowed to have been given to us so far, even though we have requested more, is the information we got at the debriefing. And contrary to the concept of not being judged on past performance, we were advised during the debriefing that our past performance did affect our technical score.

Well from a procurement lawyer's perspective that did raise the flag that there has been something, we were told directly that they count, they considered our technical performance in the current contract and it affected our

score. So from our perspective, based on the limited information we have, we think there's been some type of error in the process.

We have great respect for our partners at the State of Maryland. But frankly the question about whether or not our protest grounds are strong is the wrong question. The question in front of the Board according to the Board's own regulation, it hasn't been imposed on you by the General Assembly or anyone else, the Board's regulation says that award in the face of the contract should only be done, can only be done, if award of the contract without delay is in substantial, furtherance of substantial State interests. Well that's clearly not here.

The Agenda item itself attempts to describe substantial State interest and it mentions two bullet points. One, it's important to continue the services. Well continuing the services with DentaQuest for however a short period of time it would need to resolve this contract appeal can certainly be done by DentaQuest. You've heard that we're a very good partner today. When they testified on extensions they said we were an excellent partner. So continuing services to the 600,000 people that get this necessary service we could do for whatever short period of time it would take.

The second bullet mentions two pieces, the cost savings and reconciling to the State bank account. I appreciate the Governor and the Secretary's view that every dollar counts, absolutely. But we're talking about \$40,000 a month in administrative fees, half of which is State funds. So if there's

a three-month extension that goes until March 31st in order to get this process done correctly we're talking a total outlay in State dollars of roughly \$60,000 to \$65,000. For that fee it's very important to recognize where we're really saving money and where the real dollars are.

For roughly \$500,000 a year we administer and manage dental claims of \$170 million a year. Dentists don't always submit claims appropriately. So in the end we only pay out about \$160 million a year, appropriately pay out 160. Because we don't pay duplicate claims and we don't pay claims that have, don't meet the utilization management criteria. So a very good partner makes sure that you're not spending that extra \$10 million a year. If someone does one percent less well than we do and they don't save you one percent as much as we did, which is \$1.7 million, then the paltry savings in administrative fee, you could end up spending more. So the dollars are very important.

The last issue is this reconciliation of the State bank account. DentaQuest has more experience working with Medicaid management information systems, which we know Maryland has a problem with, and more experience working with reconciling state funds and state bank accounts than any company. Not just Scion, but any other company. And we're doing it very well today. So if it's very important to protect State funds we're in the best position to do that.

And it's not a question of whether we're better, or the decision was right, because we think the Board of Contract Appeals now has to decide that. The question is what is the substantial State interest that exists as a matter of law, your law, your regulation, that says award of this contract today is necessary. We don't think that --

COMPTROLLER FRANCHOT: Well here's, here's the problem, just my feet back to your comments. I understand you have an argument with the procurement as far as how the technical ranking ended up, although I note that the agency said that the third ranking for your client was not a negative. You guys they think did a good job, they just happen to feel that the other two ranked higher.

My problem is much as I agree with you about the, frankly the procurement law the way it's articulated, and also just due process, if someone protests I generally support holding off until the protest is concluded. But what I'm concerned about is turning protest process into some kind of incumbent protection, where every time an incumbent loses a contract based on our urging of the agencies to have competitive bids and not bring back a sole source contract with the incumbent, you know, every time the incumbent protests, you know, it's automatic three, six months of additional payments. And that is something that concerns me here. But I guess I'm going to hear from the other side.

MR. JOHANSEN: And it's a very good point. And from DentaQuest's perspective they have never protested a state contract award in any state. This is the first time they have taken what they see as an unusual step. We may appear before you on many different clients, but this client it's their very first time.

Here is an option for the Board to consider. We requested the real data that we can only see in this protest and appeal process. It's subject to a confidentiality agreement and only the lawyers and consultants who don't work with any of the parties are allowed to really see what is there. We've requested the data. If you defer this final vote until October 21st and you direct the department to work with us to get that data available in everybody's hands, we've already submitted a proposed confidentiality agreement to the department, you still have time to make this decision and make this award at that meeting. Our contract provides for a 60-day transition period. We are committed to working with everyone on that period beginning November 1. And if what we see in those documents confirms that we were properly scored, or that there really isn't any error that we can really protest, then you have DentaQuest's commitment that they walk away.

So we, you know, the question before you isn't just can you meet the standard of substantial State interest. Can you meet it today? Does it need to

be decided today? So we would ask you to consider that option in lieu of what would be perceived as a lengthy extension.

COMPTROLLER FRANCHOT: Yeah, but how do you, I can see that from your perspective, but why wouldn't we see that every time an incumbent loses, from here on out?

MR. JOHANSEN: Well part of it is the sharing of the data. In other states for example, and perhaps one of the reasons why DentaQuest hasn't protested, we actually get score sheets. You can see what's under this result that you can't quite explain. You have an ability to reconcile, geez, we thought we were really good but these are the areas we didn't score well in. So if the process is changed down the road and vendors, like they can in other states, can get some of this data so that they don't feel that they have to protest, you know, for the future that's good. And what we're providing is for this next 30-day period if you give us the data, which is where we are today, there is an appeal at the Board of Contract Appeals, then we could make that decision and perhaps decide that it's not worth protesting.

COMPTROLLER FRANCHOT: So I didn't quite understand the offer. That you want us to approve the contract and ask the agency to give you the score sheets, and within 30 days you will either decide to concede on everything and move away without any other litigation, etcetera?

MR. JOHANSEN: Correct. So I suggested deferring. However, if you award it today and instruct the department not to execute an initial notice to proceed until 30 days from today, they would have the authority to do it, we would have the authority to tell the Board of Contract Appeals that we withdraw our protest or that we continue. And at that point if the Board wanted to bring it back they could. But you could actually even approve it today with the condition that they not execute an initial notice to proceed.

GOVERNOR HOGAN: Okay. Thank you very much.

MR. JOHANSEN: Thank you.

GOVERNOR HOGAN: Now if we could have the representative from Scion come forward, please?

SECRETARY MCDONALD: Mr. Phil Andrews is here.

GOVERNOR HOGAN: Good morning.

MR. ANDREWS: Good morning, members of the Board. Phil Andrews.

GOVERNOR HOGAN: I trust we're going to hear a different side of the story now.

(Laughter.)

MR. ANDREWS: You will. You will, Governor. In a couple of respects. Let me speak first to this question of Scion's experience which came up. And I think the Comptroller has it absolutely right, the evaluation committee

considered that. They are the experts. They made a determination. They did their ranking. They have looked at the proposals. And I can tell you that Scion started this business back in the late 1990s. And then in around 2005 DentaQuest actually bought Doral Dental from Scion. Some of the Scion people went to DentaQuest, and some have come back. But most of the key players are still there. There was a five-year non-compete. During that five years Scion went out, improved its platform, worked with its clients, got better. When the non-compete was over they've come back into this job market. And so they are now servicing about ten million patients. They have transitioned in about 70 different contracts. A number of those were from DentaQuest. The transitions have been smooth. They can clearly do this contract.

On the substantial State interest issue, I've been, I've had the pleasure of being in front of this Board a number of times on this very same issue. It's the Board's regulation. The Board decides how it should be applied. I don't know what documents Board members have seen from counsel for DentaQuest, but there is an effort there to bring in a whole higher set of standards and import the federal procurement scheme or architecture, if you will, here. But that's not the right playing field.

A substantial State interest has been demonstrated here. The Board has heard from the, heard from the department about why it made the decision it did. Delaying things for a month or anything that says, well, let's go

back to the Board of Contract Appeals, as I know the Board is aware, the Board of Contract Appeals tries to move things along but the likelihood of documents being seen and then nothing new coming up, or new protest grounds, is very unlikely. It's going to be more delay. This contract has already been extended 18 months. And I think what the department is saying to you is it is time for a change.

The cost savings, you know, the last speaker was referring to what I guess he thought was a small amount of money. It seems like a lot to us. In Secretary's Brinkley's letter of September 1 talking about the two percent across the board executive agency cuts there were some dollar amounts that seemed, were much smaller. So every dollar counts. It is time for a change. You've got the perfect procurement situation, which is a number one top ranked technical and lowest price. DentaQuest can do the work. The substantial State interest, if the Board feels it is time to make the change that the agency is up here asking for, the savings in cost, the new systems, the new platform, all of which, all of which Scion can do and has done very well elsewhere, that's a substantial State interest. And it's really what the Board determines. It's contextual. It's not a statute. It's your regulation. And my experience has been that when the agency comes in asking for it the Board usually makes the award, and should do so here. And I'm happy to answer any other questions.

GOVERNOR HOGAN: Okay. Any questions?

MR. ANDREWS: I also have the President of Scion here if you'd like to hear from him.

GOVERNOR HOGAN: Any questions? Thank you very much.

MR. ANDREWS: Sure. Thank you.

GOVERNOR HOGAN: Maybe just to wrap it up, Mr. Secretary, anything you want to add after hearing from both of the vendors?

MR. MITCHELL: No. I just, I am, you know, since January 22nd we've repeatedly every Monday morning said to senior staff we're not coming down here anymore with single bid, sole source. So we're here very happy and very pleased with the direction that was taken last May and June, very happy that we got three companies to bid. And so we feel like it's a no brainer, to be perfectly honest.

GOVERNOR HOGAN: Great.

MR. MITCHELL: Thank you.

COMPTROLLER FRANCHOT: Could I just ask one final question of the Secretary? I appreciate what you've done. It's been at the direction of the Board and we believe in transparency and competition. But are you able to say without any uncertainty that the providers who are out in the front lines who have indicated a lot of trepidation that may be based on bad information about the transition from DentaCare to Scion about vendor, you know,

disruptions, reimbursement process, general procedural confusion, what exactly are you going to do to ensure that the transition occurs seamlessly?

MR. MITCHELL: Well as Susan Tucker said, I mean, this team has been here through the whole process the last ten years. They believe in it. They've slept it. They've worked with it. We are not, whether it's through our local health departments to reinforce it, or through the Medicaid, through our MCOs, we are not going to let anything happen with this procedure and these progresses. I mean, the State has made way too many progresses, as you know Mr. Comptroller, over the last ten years. And I was in the Legislature back then when this all started. So you know, it's a concern of ours. And we want to make sure. I mean, all transitions are tough at times. But this is a proven company that does ten million Medicaid people throughout the country. It's not a fly by night, and we have, we have the, you know, technical experience in the background to make sure that it works.

COMPTROLLER FRANCHOT: The President of Scion, can you stand up?

GOVERNOR HOGAN: He is standing.

COMPTROLLER FRANCHOT: Yeah, I want to hear just quickly from him, if --

MR. MITCHELL: I also would like to say that it's a pleasure to come down here and constantly hear about the Upper Shore.

COMPTROLLER FRANCHOT: Well, we want you to visit there frequently. I'm sorry to interrupt, and you may not be signed up.

GOVERNOR HOGAN: He is signed up.

COMPTROLLER FRANCHOT: But can you confirm that the transition is going to be seamless.

MR. SCHAAK: Yes, Mr. Comptroller. I'm John Schaak. I'm the President of Scion Dental.

As our counsel indicated we've in the last six years, since our non-compete expired after we sold our company to DentaQuest, we've transitioned almost I think 70 markets now and approximately ten million lives. About half of those probably are from prior DentaQuest clients. And those transitions have been seamless. One of our core competencies is the transition of data and we have as part of our family of companies a software company. They built our system. It's been a system that during our five-year hiatus from managing benefits we poured millions of dollars into to improve and so that it's, we don't have issues when it comes to transitioning markets.

And if I may just speak briefly to the provider experience, we also have a dedicated provider outreach department. And so whenever we do a transition what we do is we have our folks go out and speak to providers proactively as part of the implementation process, and then ongoing, throughout our relationship with the providers, to help them understand all of the tools that

are available to them, the electronic web portal that we have where they can easily submit claims, etcetera, etcetera. And we've had remarkable reviews from the providers when we transition markets. So yes, with absolute confidence I can tell you that this will be a seamless transition.

COMPTROLLER FRANCHOT: Thank you, Governor. Based on that I'm inclined to be supportive. I appreciate the opponent's arguments. But how are we ever going to require competition if every time there's competition it's stopped dead in the tracks through bid protests? That I'm sure in this instance may have some validity, but in a lot of instances perhaps could be completely without merit? And we end up --

GOVERNOR HOGAN: Great.

COMPTROLLER FRANCHOT: So I would move approval.

GOVERNOR HOGAN: Well thank you very much.

MR. SCHAAK: Thank you.

GOVERNOR HOGAN: Any other questions on the DBM Agenda?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: There's a motion to move the entire Agenda. Is there a second?

TREASURER KOPP: Second.

GOVERNOR HOGAN: The motion carries, three-nothing. We move on to, now to the University System Agenda. I'd just like for a second to, I think we have a couple of guests here today I want to recognize. Jim Belanger and Rob Vaughn, assistant coaches from the University of Maryland baseball team. Are they here with us?

MR. EVANS: I think they might be outside.

GOVERNOR HOGAN: Well, that's all right. I was just going to point them out. You know, it's so, and we're here for Item 1 to talk about the synthetic field. And I just wanted to give them a shout out for their tremendous accomplishments. I'm looking forward to the continued success of the baseball team. They are doing a great job putting us on the map and we just want to thank them for the efforts and congratulate them.

MR. EVANS: For the record, Joe Evans representing the University System of Maryland. We have two items on the Agenda. I'm here to answer any questions.

GOVERNOR HOGAN: Do you want to tell us about them?

(Laughter.)

MR. EVANS: There's a lot of them.

GOVERNOR HOGAN: Yeah. Two items, any questions on the University of Maryland Agenda? Is there a motion?

TREASURER KOPP: Favorable.

GOVERNOR HOGAN: So moved. Three-nothing, University Agenda. We're moving on to DoIT, Information Technology.

MR. ESTRADA: Good morning, Governor, Mr. Comptroller, Madam Treasurer. My name is Luis Estrada, Deputy Secretary of DoIT. We have 11 items on the Agenda today. Item 11 is supplemental. And we have representatives to answer any questions you may have.

GOVERNOR HOGAN: Great. Any questions on DoIT?

COMPTROLLER FRANCHOT: Governor?

GOVERNOR HOGAN: Mr. Comptroller?

COMPTROLLER FRANCHOT: I have a question on Item 10-IT.

MR. ESTRADA: Yes?

COMPTROLLER FRANCHOT: So if you could, if I could just give the background, if you want to go up and stand in front of the microphone, I guess, or -- by the way, I'm really glad to see Secretary Rahn here. Yeah. I love Jim Ports, but we miss you. So hopefully you'll --

GOVERNOR HOGAN: Yeah. I don't think we've ever seen the DNR Secretary or --

COMPTROLLER FRANCHOT: Yeah. I don't know. Geez.

GOVERNOR HOGAN: -- DoIT Secretary. I mean, we love Emily, but --

COMPTROLLER FRANCHOT: Yeah.

GOVERNOR HOGAN: -- he ought to make a guest appearance one time.

COMPTROLLER FRANCHOT: So thank you, Mr. Deputy Secretary. We're being asked to exercise the second and final option of a contract with a California based company called Environmental Systems Research Institute, which was hired to provide interactive mapping software to several State government agencies, including my own. My concern isn't so much with the services that are being delivered under this contract, or with the performance of this particular vendor, although I would be highly interested in hearing about what they have actually done in exchange for a total of \$3.8 million in taxpayer money. Rather my interest is in discussing the rather curious relationship between this company and former Governor O'Malley.

For those who are unfamiliar with the back story, ESRI was awarded this sole source contract back in 2011 for a base price of just over 2.1 million. With the options the total dollar value is more than \$3.8 million. According to the *Washington Post*, ESRI struck a deal with Governor O'Malley under which he would be paid \$148,000 to deliver speeches and provide consulting services for the company. Another sole source deal, if you will pardon the attempt at procurement humor.

I think my concern here is fairly obvious, and I think that any Maryland taxpayer would have that same concern. Without knowing anything

else about this firm or this contract other than what's in my notes, this has the appearance of a blatant quid pro quo. So obviously I have some questions.

Has anyone with DoIT looked at this contract with a fresh set of eyes? I'd be particularly interested in going right back to the start of this relationship and knowing how a sole source contract award was justified in this instance. Consider me skeptical but I find it difficult to believe that this California based company was the only vendor, including both private sector companies and Maryland based universities, that was capable of delivering these services. Remembering of course that this State is the home of Johns Hopkins, the University of Maryland, NASA Goddard, Patuxent River, the Aberdeen Proving Ground, and the sprawling private technology sector that has arisen around these and other institutions. Is the individual or individuals who negotiated this contractual agreement with ESRI still employed by DoIT?

MR. ESTRADA: I have a representative here, Barney Krucoff, who can speak to the history of the contract. We also at your request from last meeting have representatives from ESRI present to answer questions as well.

COMPTROLLER FRANCHOT: Excellent. So please identify yourself.

MR. KRUCOFF: Hi, I'm Barney Krucoff. I'm the State Geographic Information Officer. And no, I was not an employee of DoIT when

the contract was negotiated. But I started four years ago, so almost the day it was signed.

COMPTROLLER FRANCHOT: Okay. Was ESRI to your knowledge the first vendor to deliver the services in question? Or was there an incumbent vendor prior to this?

MR. KRUCOFF: In many ways ESRI was the incumbent vendor. So the real justification is this is what the agencies were using and buying already. The market share of ESRI in this sector within the State was quite dominant. What DoIT did was achieve economies of scale, buying at one time. Our transaction costs for those individual procurements were very high. It used to be easier to buy it all at once and that was the primary justification. Plus we were able to negotiate reasonable pricing. We do a model of how much software we're using, we look at the GSA schedule, we figure out what it would cost there, and we try to beat that benchmark.

COMPTROLLER FRANCHOT: Okay. Did DoIT make any effort, obviously you came in after the fact, to gauge the potential availability of vendors by issuing an RFI, request for information, or did it negotiate exclusively with ESRI from the very start?

MR. KRUCOFF: I believe it was an exclusive negotiation. But it was based on the fact of what the agencies were already using. I make an analogy of the GSI world in the State is my job is to try to maneuver a fleet. Each agency

was its own independent thing. We've got to get them lined up. And they would not have followed DoIT in a different direction. This is, they would have achieved significant costs of changing out what they already had. What we tried to do is make their purchases more efficient. We've largely succeeded in that. We all now use one license manager for the desktop software, whereas that used to be spread out everywhere. So now if someone is not using software in DNR, but they are using it in MDE, we keep account. We buy the total peak of what people use, not how many seats we have.

We have also consolidated considerably on the server side in cooperation with the university. So our major consultant on the consolidation has been Towson University. And so we have done some of what you suggested, but Towson's recommendations were to use this software as well which has a very dominant market share in the government space.

COMPTROLLER FRANCHOT: Okay. To the best of anybody's knowledge has ESRI solicited the services of other elected officials in the State of Maryland in similar fashion to this? Or is this an arrangement that was unique to Governor O'Malley?

MR. KRUCOFF: I have no knowledge of the arrangement between Governor O'Malley --

GOVERNOR HOGAN: Maybe we should have the representative

--

COMPTROLLER FRANCHOT: Is the representative here?

MR. CARLSON: Yes, I'm right here.

COMPTROLLER FRANCHOT: Great.

MR. CARLSON: Yes, my name is Christian Carlson and I'm the Director of State, Local, and Provincial Government Sector for ESRI. And to answer that very specific question, the answer is no, we have not contracted with any other government officials in any way, shape, or form in the State of Maryland.

COMPTROLLER FRANCHOT: Okay. And to the best of your knowledge, has ESRI solicited the service of elected officials in other states where it does business in a similar manner?

MR. CARLSON: No, we haven't. No, we haven't. We don't contract with government officials in this way. We contracted with Governor O'Malley after his term in office. We --

COMPTROLLER FRANCHOT: Have you done that with any other former elected officials?

MR. CARLSON: We do. We actually, the former Governor of Wyoming is actually a staff member at ESRI after his term. It's consistent with arrangements we have with domain experts within the political realm and outside where we leverage domain experts and thought leaders that help us evangelize and advocate for the use of geographic information and spatial analysis to support

governments and private sector organizations make better decisions using geography. And that's, that's literally --

COMPTROLLER FRANCHOT: Okay. So, look, I've said that I think the product you deliver is good. My concern is it was a sole source contract and right after the Governor leaves office you have a \$140,000 contract for him to come out and give a speech.

MR. CARLSON: Right.

COMPTROLLER FRANCHOT: I mean, did he come out and give the speech?

MR. CARLSON: He did. He was the keynote address at our annual user conference that we hold each year in San Diego.

GOVERNOR HOGAN: Well, I hope that was a hell of a speech for \$140,000. I've never heard a former Governor give a \$140,000 speech before.

MR. CARLSON: It was, I think it was more than one speech that he was going to give, yes. But --

COMPTROLLER FRANCHOT: Well, it's the optic. And that may, it may be acceptable out in Wyoming but it's not acceptable here in Maryland as far as I'm concerned. I'm going to ask that this be deferred for, until the next meeting. Because I just, I'm comfortable with your company. I'm not comfortable with the quid pro quo.

MR. CARLSON: Right. I appreciate your concern. And I can, I can see the angle that you're coming from. I can just assure you that there was no quid pro quo at all and we were literally leveraging O'Malley as a thought leader to actually tell the story, which is actually a very special and very good story, of more than 20 years of environmental progress and the use of GIS at the State of Maryland to support government decision making. So.

GOVERNOR HOGAN: What was the timing between when the sole source bid was granted --

MR. CARLSON: Mm-hmm.

GOVERNOR HOGAN: -- and when you agreed to pay him the \$140,000 for the speaking?

MR. CARLSON: Well the sole source aspect of this whole thing, so we offer multiple ways for you to procure our software. And you can buy software licenses individually or you can use another method, which is an enterprise license agreement.

GOVERNOR HOGAN: I don't care about any of that. When did you, what's the time frame from when you got the contract to when you agreed to pay the money?

MR. CARLSON: The sole source was, I think I'd have to ask Barney, it was five or seven --

MR. KRUCOFF: Originally it was put in in September, 2011.

GOVERNOR HOGAN: Okay.

MR. KRUCOFF: And it came back before the Board after the three-year base period there was one option year that the Board approved. This would be the second option year and it's the final option year under the current contract.

GOVERNOR HOGAN: So it was right before he left.

MR. CARLSON: Right.

GOVERNOR HOGAN: And right after he left is when he got the contract for the \$140,000?

MR. CARLSON: I'm not sure of when that contract was, it was within the past year.

GOVERNOR HOGAN: You're not sure?

MR. CARLSON: Yeah. It was in the past year.

TREASURER KOPP: So it was about five years after the contract, four years after the contract.

MR. KRUCOFF: September 1st is when the contract has been turning over. So we, the BPW approvals have tended to be in August.

SECRETARY MCDONALD: It was August 10th, 2011 that the Board of Public Works approved the three-year contract with two one-year options. And then three years later, August of 2014, the Board approved the one-year option. And this, he's correct, this is the second year option --

GOVERNOR HOGAN: Well, you know, I'll agree with the Comptroller. I've heard people say that it's great mapping software. And that you've got a good company. But I'm truly concerned about the optics and the appearance of an elected official making a decision and then receiving very shortly thereafter \$140,000 to make a speech. So I'm going to second the Comptroller's motion to table this particular item.

COMPTROLLER FRANCHOT: Thank you.

MR. CARLSON: May I add to that --

GOVERNOR HOGAN: No, I think we're done. Thank you very much.

TREASURER KOPP: Could I just say, so you know that that's a two to one decision, I happen to recognize that ESRI is the world leader in GIS software in a number of areas. We use them, we use your Arc process. And my recollection was that the former Governor in fact after being cited by the, by Harvard University, by the Kennedy Center, by some folks at the U.N. actually, for the work done in using graphics to help make decisions and drive decisions has been asked by a number of groups to talk. And we all thought that was a good thing for Maryland. I'm sorry this has been --

GOVERNOR HOGAN: I think this was the only group to pay him \$140,000 to talk.

TREASURER KOPP: -- I'm sorry this has been mixed into the presidential politics and partisanship at this point, but just want you to know that there are at least those of us in Maryland who recognize the good work that you have done, are doing all over the world. And thank you for it.

MR. CARLSON: Thank you.

GOVERNOR HOGAN: So the motion is to table this, defer the action. Not to, you know, we're not taking a final action on this thing. Right?

COMPTROLLER FRANCHOT: Mm-hmm.

GOVERNOR HOGAN: The motion by the Comptroller was to defer it until the next meeting. I passed it two to one. And now are there any other questions on the rest of the DoIT Agenda? If not, is there a motion on the remainder of the Agenda?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Okay.

MR. ESTRADA: Thank you.

GOVERNOR HOGAN: The motion carries three-zero. Now Department of Transportation?

MR. RAHN: Good morning, Governor, Comptroller, Treasurer. For the record, I'm Pete Rahn representing the Maryland Department of Transportation. MDOT is presenting 18 items today, including two supplemental items. Items 6-M and 18-GM are being withdrawn at this time.

GOVERNOR HOGAN: Any questions on the Transportation Agenda? Is there a motion?

TREASURER KOPP: Is the Airport one on or no?

GOVERNOR HOGAN: Is what?

TREASURER KOPP: The Airport one on or no?

COMPTROLLER FRANCHOT: It's been pulled.

GOVERNOR HOGAN: It's been, it's off the Agenda.

TREASURER KOPP: Oh, that's right.

GOVERNOR HOGAN: Yeah. Is there a motion, second?

COMPTROLLER FRANCHOT: Yes, move approval.

GOVERNOR HOGAN: Three-nothing on the MDOT Agenda.

Next we have Department of General Services.

MS. BASSETTE: Good morning, Governor.

GOVERNOR HOGAN: Good morning, Madam Secretary.

MS. BASSETTE: Good morning, Madam Treasurer, Mr. Comptroller. For the record, I'm Gail Bassette, Secretary of General Services. The department has --

GOVERNOR HOGAN: Quiet please.

MS. BASSETTE: The department has 25 items on our Agenda, including one supplemental. At this time I would like to read into the record for Item 2-C a comment regarding the funding source for 2016. DGS will return to

the Board of Public Works requesting approval for additional capital funds once they are appropriated for this project. And we're glad to answer any questions you may have at this time.

GOVERNOR HOGAN: Any questions on the DGS Agenda?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second?

TREASURER KOPP: Mr. Chairman, I would just like to say for the record Senator Cassilly wished to go on record.

COMPTROLLER FRANCHOT: Oh, great. Is he here?

TREASURER KOPP: He was here. I don't see --

SECRETARY MCDONALD: He's in favor of Item 2.

TREASURER KOPP: For Item 2-C.

GOVERNOR HOGAN: Well let's make a note that the Senator was in favor of Item 2-C.

SECRETARY MCDONALD: And we have a letter from him in the record.

GOVERNOR HOGAN: And we'll have the letter in the record.

TREASURER KOPP: And he was here earlier, I think. I don't see him now.

GOVERNOR HOGAN: Any questions on the DGS Agenda? We have a motion to move the DGS Agenda. Is there a second?

TREASURER KOPP: Second.

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

That concludes the meeting.

(Whereupon, at 11:32 a.m., the meeting was concluded.)