

# **CONTROLLING BOARD**

**OHIO OFFICE OF BUDGET AND MANAGEMENT**

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## **MINUTES OF THE APRIL 19, 2004 MEETING**

President, Lisa Dodge, called the Controlling Board meeting to order at 1:42 p.m. Serving on the Controlling Board were Senator Bill Harris, Representative Charles Calvert, Senator John Carey, Representative Jim Hoops, Senator Tom Roberts and Representative Sylvester Patton.

The minutes of the April 5, 2004, meeting were distributed. A motion to approve the minutes was made by Senator Harris, seconded by Representative Calvert and approved by the Board members. President Dodge said a calendar for the next year will be available at the May 3, 2004, meeting.

Attached is the April 19, 2004, meeting agenda. President Dodge said Item 28, DAS455-0405 and Item 68, DHS690-04 have been deferred. Item 29, DAS456-0405 has been revised to remove FY04, Item 48, EDU338-0405 revised the list of participating universities and Item 69, DRC512-04 revised the required explanation section. A motion for blanket approval of all items not held for questions was made by Representative Calvert, seconded by Senator Harris and approved by all Board members.

President Dodge asked if there was a motion to waive the seven-day rule to add DAS457-05 to the agenda. Senator Harris moved and Representative Patton seconded.

Item 86, DAS457-05. Scott Johnson, Director, Department of Administrative Services said the department had some significant difficulties over United Healthcare's proposal and could not with confidence recommend what appeared to be the lowest cost provider considering the nature of the information they had been provided over a period of time. Therefore, they have negotiated an extension with Ohio Med and will begin a new RFP process to do this job over. Senator Harris asked what the department's plans are for the new RFP and the time frame. Director Johnson said they have already started the process for the new RFP and plan to have the new contractor in place a year from now. Senator Harris asked whether there is any way to recover extra costs from the consultant in relationship to the cost of doing another RFP. Director Johnson said no they have no way of recovering money from them because there was no indication of consultant errors. They were analyzing information that was wrong and naturally that produced a wrong answer. Representative Hoops asked whether the groups or organizations who might be interested in bidding on the new RFP will have a chance to review the RFP before it becomes official. Director Johnson said yes, that is in fact part of the process. Senator Roberts asked why the Disease and Health Management program was being eliminated in the new contract. Director Johnson said they believe they can get better rates if it is done directly and not as a subcontractor to a prime. Senator Roberts asked if the Board would see the Disease and Health Management program in a different bid later. Director Johnson said that is correct. Representative Patton asked whether the contract is an increase. Director Johnson said it is the same amount for the extension that they were paying this provider in the previous contract. Representative Patton expressed his concern about how wrong answers could have happened in the RFP process. Director Johnson said actually what you are seeing here is the way in which the process works well. In this case circumstances were such that we were able to discover information that the consultant had been provided was inaccurate. What happened was that the proposal either deliberately or carelessly had inaccurate information about the discounts, the hospital network, and the physician network being proposed and

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also about the status of the accreditation. This has not disadvantaged the people that the department serves, but the employees that depend on this and we have been able to protect the taxpayer's money at the same time. Senator Harris said on behalf of the Board he wanted to congratulate the Department of Administrative Services Director and his staff for taking proactive action on this particular circumstance. The item was approved without objection.

The following Items were discussed and acted upon as stated.

Items 12, OSU956-04, 15, OSU962-04 and 16, OSU6963-04 were held as a group by Representative Patton and Representative Hoops held OSU962-04. Representative Patton inquired about the original estimate. Judy Nodjak, Ohio State University said when they originally sit down to do an estimate with an associate they have their in-house engineers or in-house architects walk through the building, take a look at what renovations they believe need to occur and they assign a dollar per square foot. Subsequently, when the design firm started sketching out and doing their schematics, they determined that the HVAC system that is in place in the building right now would not be sufficient to properly cool and heat the auditorium. Representative Patton asked whether all buildings are automatically to be ADA accessible. Ms. Nodjak said yes, they would automatically assume that they are going to construct everything to ADA standards. Representative Hoops asked why a waiver of competitive selection was not requested and what are you doing to make sure it doesn't happen again. Ms. Nodjak said the university had two different individuals preparing Capital Requests on two different projects with exactly the same architect about a week apart. Each request by itself was under \$50,000.00 and was not subject to a waiver of competitive selection. When they went to encumber the funds they couldn't encumber more than \$50,000.00 to a given architect. OSU will be sure to check recent proposals in the future as they submit them so that this doesn't occur again. The items were approved without objection.

Item 19, TTC011-04 was held by Representative Calvert. Representative Calvert questioned why the university is using more than ten percent of the estimated construction cost as architectural fee for this project. Robert Haslinger, Terra State Community College said the price is over ten percent because of the mechanical and electrical engineering fees. The item was approved without objection.

Items 20, YSU039-04, 21, YSU040-04, 22, YSU041-04, 23, YSU042-04 and 24, YSU043-04 were held as a group by Senator Carey. Senator Carey asked if the purchases requested today fit into the 1996 University Master Plan and whether there is a new Master Plan on the horizon. Dennis Clouse, Youngstown State University said the university is currently undergoing a new Master Plan update that has been ongoing for about the last year and will continue for another six to eight months. Incorporated in that plan are many of the aspects of the 1996 Master Plan and the purchase of these properties for university use is within the new plan as well. Senator Carey asked why only one appraiser was used to appraise the five properties. Mr. Clouse said this company has done an extremely good job of appraising properties for the university. The company is competitive and their prices are comparable with the other appraisers that Youngstown State University has used. The items were approved without objection.

Item 27, DAS454-0405 was held by Representative Hoops. Representative Hoops asked whether the department would increase staff with the federal dollars that are coming in. Winfred Johnson, Chief Fiscal Officer, Alcohol and Drug Addiction Services said they currently have three positions that will be filled with federal dollars. The increase in the federal Block Grant dollars will be used to offset the cost

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of the rent so they don't plan to use any of the federal Block Grant dollars for the positions. Representative Hoops asked what happens if the federal dollars are eliminated. Mr. Johnson said the department would pay for the positions with their largest federal funding source, which is the Substance Abuse Prevention and Treatment Block Grant, or if they had to they would lay-off those positions. Another option would be to renegotiate the contract after two years since it is a two-year contract. Representative Hoops asked why staff is spending time at the department and not on location. Mr. Johnson said the staff at the department would be management staff coming to the department for various management type activities. The item was approved without objection.

Item 52, DOH128-0405 was held by Senator Carey and Senator Roberts. Senator Carey asked why the contract on early childhood coordination was needed. Sean Keller, Department of Health said the department saw this as an opportunity to gain federal funding to strengthen the early childhood systems through out the state of Ohio. Senator Carey questioned why the department selected the higher priced vendor. Mr. Keller said the reason for choosing Metis is because they provided a better overall quality proposal. The work plan was very detailed, the timeline upon review was considered reasonable and by far they provided the strongest set of staff qualifications. Senator Roberts asked if this is a federal mandate or an initiative that the department originated. Mr. Keller said it is not a mandate but a source of funds that was brought to their attention. Representative Patton asked why the department did not call the Education Development Center to talk to them to bring the timetable more in line with what they wanted. Bethany Moore, Department of Health said their normal process is to talk with the winning vendor first and that is what they did and they were still interested in contracting with the department. Representative Patton asked what the original time frame called for in the RFP. Ms. Moore said the time frame was through June 30, 2004 with a renewal clause for 12 months after that. Senator Roberts asked when the discussion with Metis took place. Ms. Moore said the conversation happened after the review process. Representative Patton expressed his concern that he would like to have a breakdown of the RFP evaluation process for Board members. The item was approved without objection.

Item 53, DOH129-04 was held by Senator Harris. Senator Harris asked if the STAND Campaign and the Tobacco Use Prevention and Cessation (TUPAC) Program are separate and whether efforts are being duplicated. Sean Keller, Department of Health said a TUPAC member sits in on the evaluation panel to ensure that they were not duplicating efforts. The Department of Health program is federally funded to address the promotion of smoke free environments and to assist local efforts in that arena. The STAND Campaign is more geared toward the youth environment where Department of Health is more general in nature. The department meets with TUPAC on a regular basis. The department sits on their committees they sit on the department's committees and they were part of the evaluation team. The department tries to work with TUPAC to gear efforts and focus to compliment one another but at the same time to minimize the potential of duplication of particular services. Senator Harris asked how the media is structured to ensure that there is no duplication. Mr. Keller said the department is given four charges from the CDC for the grant monies that they have which is basically prevent the initiation, support cessation efforts, eliminate exposure to second hand smoke and identify and eliminate disparities. Although both are smoking cessation programs, there is a need for parallel activities out there to compliment and supplement one another. Senator Roberts asked whether this is radio and television at the local level media campaigns. Mr. Keller said that is correct. Senator Roberts asked who would make the determination of what media at the local level will be used. Mr. Keller said the plans that were developed in terms of the vendors were all provided a mix of what type of mix they were to offer for

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print media as well as television and radio. Based on the proposals that they had submitted to meet the diversity of various populations statewide and to focus certain messages in certain areas based on data that we have in terms of the various surveys that we have done in the past to target certain populations in certain areas of the state. The item was approved without objection.

Item 73, DRC518-04 was held by Senator Harris. Senator Harris asked whether an estimate of the cost savings to the state by using this jointly approved process for the contractors is available. Greg Trout, Department of Rehabilitation and Correction said yes, he had a handout for each member and had discussed the cost of litigation in this case with the Attorney General's Office and obviously these are estimates and the actual experience in litigation could vary. When you factor in the uncertainties it might be a little more accurate to say that trial costs would range from \$10 million to \$15 million, it's a little hard to predict. The approach that they are taking is to retain a committee or team of experienced professionals in this area to focus the review on a representative number of institutions with a much quicker period of review that is less disruptive or demoralizing to the staff with fewer documents produced, a shorter period of time to conduct the thing overall, totally avoiding the discovery phase of litigation. Avoiding discovery alone saves the department a lot of money. Senator Harris asked what the estimated savings are by following this process. Mr. Trout said the \$10 to \$15 million-dollar cost of trying a case is the cost of laying the issues before the court. Here the cost of creating a joint report is \$350,000.00 for a report that would be completed in December. The \$10 to \$15 million dollars does not take into account the disruption in institutional services when you have doctors and nurses being deposed who cannot be providing services to inmates at the same time. In inmates civil rights actions as with any civil rights action, if the plaintiff prevails, at the end of the day the court orders the defense to pay their expenses including expert fees. That's a part of the background of a matter like this. All of that factors in as well as our consideration of the overall savings, the reduction in the scope of the matters at issue, the greater control or lesser disruption of this approach. Senator Roberts asked who is Fred Cohen. Mr. Trout said retired professor Fred Cohen is a former professor of law for the state university in Albany, New York. He is a long time student of correctional law, he publishes a number of periodicals reporting on corrections legal decisions and he also served as the lead monitor under the settlement of the department's mental health litigation. He is known therefore to the plaintiff's lawyer who also participated in that lawsuit. His role in this is to serve as the principal author, the coordinator of the project. Senator Roberts asked who suggested the names for the consultants. Mr. Trout said the names were among those kicked out initially. Senator Roberts asked whether discovery could be used against the state as a part of the litigation to sue the state. Mr. Trout said the results of this report will be shared with the plaintiffs and yes they will have access to use whatever is in the report. The item was approved without objection.

Item 82, DOT264-05 was held by Representative Calvert and Representative Hoops. Representative Calvert asked why the department thinks they will be able to do eight times more assists than Cleveland had done. Howard Wood, Program Manager, Department of Transportation said in Columbus and Cincinnati they have experienced about four assists per hour. Representative Calvert inquired about the statement "Contractor shall make arrangements for vehicle storage." Mr. Wood said that would be the contractor's vehicles. Representative Calvert questioned the towing service recommendation, corporate sponsor logo on the side of vehicles and the fee of \$65.00 per hour. Mr. Wood said they are not in business to recommend a certain towing service but would have a list or yellow pages and a cell phone to let the motorists call a service. In the Cincinnati area, CVS Pharmacy put the logo on the vans to

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underwrite the service and they want to provide that option but have the department maintain approval on any such logos that will be put on the vehicles. The \$65.00 hourly cost is as such because they are basically looking at a split shift for morning and evening coverage. Representative Hoops asked whether there are any differences in what they are doing in Franklin County along Interstate 71, and what you are going to require here. Mr. Wood said in the Columbus area it is done by the Ohio Department of Transportation personnel. It is a very similar comparable service. Representative Hoops asked if there were other vendors to provide this type of service. Mr. Wood said they found that there were two companies that provided the services, Samaritania, Inc., of Massachusetts and URS, which is based in Virginia. The item was deferred by request of the agency.

With no further business before the board, the meeting was adjourned at 3:15 p.m.

Respectfully submitted,

Francene Johnson  
Controlling Board Executive Secretary

*04/19/04 Minutes approved by the Board:*

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