

# CONTROLLING BOARD

## OHIO OFFICE OF BUDGET AND MANAGEMENT

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### MINUTES OF THE SEPTEMBER 22, 2003 MEETING

President, Lisa Dodge, called the Controlling Board meeting to order at 1:40 p.m. Serving on the Controlling Board were Senator Bill Harris, Representative Charles Calvert, Senator James Carnes, Representative Jim Hoops, Senator Tom Roberts and Representative Sylvester Patton.

The minutes of the August 18, 2003, meeting were distributed. A motion to approve the minutes was made by Senator Harris, seconded by Representative Calvert and approved by the Board members.

Attached is the September 22, 2003, meeting agenda. President Dodge said the following items were deferred: No. 80, DMR349-0405; and No. 108, DOT253-0405. 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.

The following items were discussed and acted upon as stated.

Item 3, AGO013-04 was held by Representative Patton. Representative Patton asked if there is a list of designated charities for the bingo settlement money and if any of the charities are local. Christine Hansen, Chief Fiscal Officer, Attorney General's Office, said the local organizations are given the opportunity to designate the bingo settlement dollars to whatever charities they deem appropriate. In most cases they are going to local charities either in their area or in the state of Ohio. Representative Patton asked if the letter to the charities would state that the money is coming from local bingos and was designated to go to them. Ms. Hansen said there is a standard letter that goes out indicating that these are settlement dollars from a particular organization. It will identify the organization that it is coming from and indicate that that organization has designated those charities to receive those dollars. The item was approved without objection.

Item 13, MUN042-04 was held by Representative Calvert. Representative Calvert asked how large is the university's engineering department and is the university planning to increase the department. Robert Keller, University Architect, Miami University, said last year the university had approximately 800 majors in engineering and it is increasing and they expect it to continue to increase. The item was approved without objection.

Item 25, ADJ078-04 was held by Senator Carnes. Senator Carnes asked for an explanation as why this request is retroactive. Mark Ostler, State Finance Officer, Adjutant General's Office, said it is a retroactive request and it shouldn't be, it was an oversight. He indicated that the department is under the direction of General Smith to straighten this out so that it doesn't reoccur. Senator Carnes asked if the department has taken any steps to make sure that there is better accountability regarding these types of contracts. Mr. Ostler said the responsibility is on him to set up a system which allows them to track things better. President Dodge said Mark is new with the Adjutant General's Office and maybe there was a little absent time between when he started and the other person left so perhaps that can partially be attributed to this. The item was approved without objection.

Item 30, ADJ083-04 was held by Senator Harris and Representative Calvert. Senator Harris asked why didn't the Adjutant General enter into a normal bidding process for this site work for the Readiness Center in Coshocton. Mr. Ostler said there was a feeling of being under the gun of getting approval from the National Guard Bureau and that the opportunity with a vendor already on site under a bid from the County would save money and time. Senator Harris asked whether this was an emergency and whether it was declared in order to meet the requirement of the regulations. Mr. Ostler said he didn't know if there was any internal discussion regarding that matter specifically but thinks that is something the department needs to look at. Senator Harris asked when was the actual site preparation done. Mr. Ostler said there was a memorandum of understanding signed in late February and the actual work was done in April. Senator Harris asked did the county select the Coshocton County

# CONTROLLING BOARD

## OHIO OFFICE OF BUDGET AND MANAGEMENT

---

Regional Airport Authority for their portion of the work by a competitive bid. Mr. Ostler said that is correct, they contracted with the vendor and they did it through a county competitive bid contract. Representative Calvert asked why has it taken from April to now to get this request before the Controlling Board. Mr. Ostler said the Coshocton Airport paid the vendor and the department is looking to reimburse the Coshocton Airport. The item was approved without objection.

Item 40, DAS385-0405 was held by Representative Patton. Representative Patton asked why wasn't an RFP done on this particular contract. Nan Neff, Benefits Administrator, DAS, said the department sent out letter bids to all vendors that they knew of that currently performed that service for the department, as well as the list from the EEO and the Medical Board. Representative Patton asked if this was the best bid from the letter bids. Ms. Neff said the department received 14 responses back from the letter bids. Representative Patton asked if the department currently has a contract with Independent Evaluators. Ms. Neff said yes. Representative Patton asked how did the department originally select them. Jan Rader, Benefits Manager of Disability, DAS, said they solicited the department. The department was having a lot of difficulty at the time with doctors being able to meet the guidelines that are set in the administrative rules and one of the things Independent Evaluators promised is that they would always get it back within two weeks so the department started using them on a trial basis. Representative Patton asked if most of the physicians hired are on a small contract. Ms. Neff said yes. The department ended up using Independent Evaluators more than they anticipated and therefore needed to increase their contract amount. The item was approved without objection.

Item 58, EDU301-0405 was held by Representative Hoops. Representative Hoops asked if this procedure was done in other budgets or did this just start. Susan Tavakolian, Department of Education said, this is a new program. There is another Medicaid program that school districts participate in but it's a different program. It's a program that reimburses school districts for direct services to children so they provide speech therapy and they can claim reimbursement if it is a Medicaid eligible child. This is a program that focuses on administrative component services to Medicaid eligible children. So for example a school district that is getting information to parents of Medicaid eligible children can claim some of that for Medicaid reimbursement. That piece of it is a Medicaid program that we have not had in Ohio in the past and that's the new part of this program. Representative Hoops asked if in the past the department hasn't utilized or collected as much as they could in administrative cost. Ms. Tavakolin said no, for the direct services there is an administrative piece built into the reimbursement that school districts can get but there also are things that relate to Medicaid eligible children but aren't a part of a direct service. Representative Hoops asked if it has to be run through the Department of Education or is that the best way to do this program. Ms. Tavakolian said the department did explore initially when this program was being considered running it through ODJFS and they preferred to have it run through the Department of Education. Representative Hoops asked if the department feels that is the most efficient way of doing it. Ms. Tavakolian said not having any experience the department was at a decision point where the Department of Education either needed to take responsibility and say they would go forward with trying to get this program approved or that it may very well may not have been approved. Representative Hoops asked whether this program will end up costing the state. Ms. Tavakolian said there is no charge for the state because it is going to be a reimbursement program so districts will claim these reimbursements only after they have already provided the service and expended their own state/local money to provide that. The item was approved without objection.

Item 60, EDU303-04 was held by Representative Hoops and Senator Carnes. Senator Carnes asked if the department attempted to solicit additional bids or contact perspective vendors. Colleen Hawksworth, Department of Education, said yes, the department did research the avenues that were available to them at the time. They researched the companies that were doing this sort of work for the Reading First program and solicited bids from four companies and a private individual who has also done a lot of work in the area of technical assistance for Reading First. Only one company responded and three companies called about the scope of work and what was required but declined to develop a proposal. Senator Carnes asked could you provide some additional information on the Reading First Ohio program. Ms. Hawksworth said Reading First is a very prescriptive program. It's a

# CONTROLLING BOARD

## OHIO OFFICE OF BUDGET AND MANAGEMENT

---

program that the federal government has charged the states to work with the highest poverty lowest performing school districts in the state to implement a program. Senator Carnes asked who would use these handbooks and training guides. Ms. Hawksworth said the handbook is really to develop training at the state level for our staff, for the staff that will be supporting implementation across the state of Ohio. The regional consultants, the coordinators and other program implementers so that they really understand the requirements and how this must be implemented so we can implement it with fidelity to our state plan. Senator Carnes asked will there be coordination among Ohio Reads and other existing reading recovery programs to ensure that there will be no duplication of effort. Ms. Hawksworth said they have been working very diligently with Ohio Reads and all the other literacy initiatives in Ohio to make sure that Reading First is aligned with the state initiatives and also is really targeting the specific goals of the program so that the other programs can compliment what is being done in Reading First and can work together as one cohesive unit across the state. Senator Carnes asked if the department is getting additional federal money for the Reading First handbooks. Ms. Hawksworth said the budget for the handbook is specifically stated in the Reading First Ohio Application and was approved by the feds in the initial award and is funded solely by federal money.

Representative Hoops asked how long is the grant and when does it start. Ms. Hawksworth said the federal grant is a six-year award for the state of Ohio. The amount for this handbook is a one-time amount, which would include the training. The award is approximately \$27 million dollars for the state of Ohio for each year over six years. The amount of the money awarded to the state of Ohio is awarded so that 80% of money flows directly to districts in a competitive application process and the department has awarded approximately \$22 million to the districts already this year. Representative Hoops asked when this grant started going into the schools. Ms. Hawksworth said it was awarded in January of this year, the sub grant applications went out in the spring and districts were awarded the First of July and they received their monies during August.

Representative Patton asked if the department currently has a contract with RMC Research Corporation. Ms. Hawksworth said no. Representative Patton said since bidders had only 12 days to respond, maybe that had something to do with receiving only one bid and questioned whether there was any reason for the short turn around period. Ms. Hawksworth said they were very eager to get this work under way because the technical assistance handbook is really helping them provide the training to the implementers of the program and they wanted to have that training occur as quickly as possible. The item was approved without objection.

Item 61, EDU304-0405 was held by Representative Hoops. Representative Hoops said it was agreed to commit \$632,000.00 at the time the agreement was signed September 2<sup>nd</sup> but at that time only \$347,000.00 was appropriated; what happens if this request is not approved. Ms. Tavakolian said our appropriation authority is only \$347,000.00. That was the figure that had existed in the previous budget bill and at the time they put that amount in as a reasonable expectation of what they would continue to get. The department learned about a month ago that they would be getting additional money so that is why they are coming to the Controlling Board. The item was approved without objection.

Item 62, EDU305-04 was held by Representative Hoops. Representative Hoops questioned whether the public universities already offer AP courses. Roger Street, Department of Education, said they are not aware of any college that offers access to AP programs on a twenty-four hour, seven-day a week basis. The idea of this particular program is to offer AP classes to students who do not have access to them in their high schools. Representative Hoops asked if the department had talked with the universities about offering something like this. Mr. Street said yes, they had some conversations with the Board of Regents. Representative Hoops asked what kind of response did the department get from the Board of Regents. Mr. Street said it is in the discussion stages and that at this point there is not a college that has this available. The item was approved without objection.

Item 64, EPA403-0405 was held by Representative Calvert. Representative Calvert pointed out that on page three of the operating request, the department indicated that this contractor was not performing work under the contract.

# CONTROLLING BOARD

## OHIO OFFICE OF BUDGET AND MANAGEMENT

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Yet the scope of work says that all new employees will get a baseline test and all employees leaving the agency will be tested. Hoops questioned what the agency had done from July 1 to the current time to meet the requirements. Don McNeal, Fiscal Officer, EPA, said the department has not conducted any baseline exams. Representative Calvert asked whether they put the agency at risks by not doing base lines in a timely manner and employees who have left have not had baseline established. Mr. McNeal said no. The item was approved with Representative Calvert objecting.

Item 71, LRS002-04 was held by Representative Hoops. Representative Hoops asked how the agency is going to effectively use these funds. Jeffrey Folkerth, Legal Rights Services, said the agency has a voters rights and assistance booklet which they have prepared in the past. They plan to reformat, revise, and distribute it to the state through the various Board and Elections and different organizations. They also plan to do some monitoring of the Secretary of State's state plan under the Help America Vote Act. That plan will include a complaint process for people who have been denied or feel they have been denied some access to the voting places and the agency will provide representation to folks who want to access that complaint process. The item was approved without objection.

Item 77, DMH391-0405 was held by Representative Calvert, Senator Harris, and Representative Hoops. Representative Calvert asked if it is necessary to raise the salary schedules for these administrative professionals at this time. Woody Weimer, Department of Mental Health, said the department under the code section 124.181 pays its physician administrators by supplementing the Schedule E Compensation schedule. Since they set that schedule together for the exempt administrators since 1998 the individuals that supervise the line physicians who are basically covered by union contract (1199), have been receiving increases. The department is at a point where if they are going to be able to avoid salary compression between the bargaining unit physicians, a number whom already are at the level of physician administrators, and within the two classifications for the physician administrators they feel it's responsible to come back to the Board and revise that schedule. Representative Calvert asked if the Board approved this increase, how much of a raise will these two physician administrators who are at the ceiling receive and when will they receive it. Mr. Weimer estimated that over the next year or so the department would probably spend system-wide about an additional \$10,000.00 to \$12,000.00. Representative Calvert asked if there is anything in the negotiated contract for non-exempts that would be triggered by this change in schedule. Mr. Weimer said no, there is nothing specific in the contract.

Senator Harris asked, in the event that the Governor remove the freeze would anything change relative to how these raises would be implemented. Mr. Weimer said when the freeze is removed; the department will go through a regular process of taking a look at all of the Schedule E2 increases including the physician administrators. That would allow those two or three individuals that are frozen to be eligible for their increase. Senator Harris asked if the only thing that is limiting the implementation of these increases is the fact that the Governor has a freeze. Mr. Weimer said yes.

Representative Hoops said his questions have been answered.

Representative Patton asked if the department sees these individuals taking on additional responsibilities. Mr. Weimer said no. Representative Patton asked if we are just pacifying them because of the ceiling. Mr. Weimer said we are really getting ourselves in a position for the next couple of years so that we are not limited in our hiring of physicians and physician administrators. It's going to allow the department to hire confident and qualified physician administrators.

Senator Roberts asked how close the closest subornate is to the current ceiling in salary. Mr. Weimer said they are right at that ceiling now. The item was approved without objection.

# CONTROLLING BOARD

## OHIO OFFICE OF BUDGET AND MANAGEMENT

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Item 84, DNR158-04 was held by Senator Roberts. Senator Roberts asked why is the state spending money to stabilize private property. Steve Manilla, Chief Engineer, Department of Natural Resources, said the dam is actually owned half by the state and half by the private property owner. The repairs that the department completed were on the privately owned half of the dam. They attempted to contact the property owner to advise him of the urgency to complete the repairs but were told the property owner was in jail. Senator Roberts asked how sure the department is that he or she will maintain the dam and the investment the state has put into it. Mr. Manilla said if a problem occurs with the repair they would again attempt to get the private property owner to tend to that. But again, if they were not capable of doing that in a timely manner, they would affect the repairs. Senator Roberts asked if the department sees this as an on-going state supported project. Mr. Manilla said in the short term it could be an obligation that the department will have to continue to fulfill. The department intends to pursue getting their cost reimbursed from the property owner and will be approaching the Attorney General's Office to find a way to do that. They may not get cash back but may have to pursue perhaps a lien on the property. The item was approved without objection.

Item 92, DNR409-0405 was held by Senator Harris, Senator Roberts and Representative Patton. The item was discussed at length and based on the members' concerns surrounding cancellation fees and the contractors ability to increase fees to meet the guaranteed gross revenue of one million dollars, the item was deferred to obtain better clarification of the members concerns.

Item 93, DHS657-04 was held by, Senator Carnes, Representative Calvert and Senator Roberts. Senator Carnes asked why the state is liable for "inefficiencies" of the contractors. Lt. Dave Dicken, Highway Patrol, said the term "inefficiencies" might have been mired from the State Architect's report. The department is not liable, they made arrangements as they went with various vendors and were made whole. Representative Calvert asked how the department arrived at paying the contractor \$8,000.00 a month. Thomas Ford, Highway Patrol, said essentially the issue contains two items. (1) Is for additional services for the associate architect for the project for additional construction administration and that construction administration period was for a two-month period. (2) The second item here today is for additional change order allowance amount to their contract. That essentially adjusts the original change order allowance that was written into the contract and increases it to cover the cost of additional change orders that were executed during the course of the project. Representative Calvert said so on the bottom of page two you agree with me that March 25, 2004, should be March 25, 2003. Lt. Dave Dicken said that is correct.

Senator Roberts asked what the inefficiencies were and did the inefficiencies cause an extension of the contract. Mr. Ford agreed that the use of "inefficiencies" of the contractors is probably not the best choice of words for this application. As with most renovations of a building that's 60 to 70 years old there were a lot of unforeseen conditions once you get into the demolition process and the construction process itself. Senator Roberts asked if there is someone that goes in advance to take a survey of the building to talk about what you have and what you need to work with and is this something that individual should have found. Mr. Ford said he believed that the associates and all the individuals that were involved with the project did their very best to go in and do exactly that.

Representative Calvert asked why wasn't this contract extended when the department extended the two prime contracts to May 2003 and why is it September and we are just learning about this retroactive contract. Lt. Dicken said the individuals in the department responsible were not aware in March when they had to extend the term that it should have been brought to the Controlling Board's attention at that time and it was not brought to the attention of the fiscal group. The item was approved without objection.

Item 99, DRC454-04 was held by Senator Harris. Senator Harris asked the witness to review this request for the record. Greg Trout, Chief Council, DRC, said the department apologizes for this retroactive Controlling Board

# CONTROLLING BOARD

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## OHIO OFFICE OF BUDGET AND MANAGEMENT

request. This matter concerns a contract with a physician for monitoring services of a settlement at the Ohio State Penitentiary. The contract for last year totaled \$54,000.00; the contract for this year is \$60,000.00. Neither contract alone exceeded the department's threshold of \$75,000.00 for Controlling Board approval but in this case the contractor submitted his invoices for the previous contract year in this current fiscal year 2004. Paying those invoices together with the current contract amount does exceed the Controlling Board threshold and thus necessitates approval by the Board for the contract for the upcoming year. The department has taken the step of not only speaking to but writing the contractor to advise him of the problems that this creates and to ask his help in not letting this happen again. Contracts will be monitored on a quarterly basis and the department has also prepared a general letter that will go to all contractors at the point of creation of a new contract so that they will be advised of the importance of submitting invoices timely. The item was approved without objection.

With no further business before the board, the meeting was adjourned at 3:43 p.m.

Respectfully submitted,

Francene Johnson  
Controlling Board Executive Secretary

*09/22/03 Minutes approved by the Board:*

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