

CONTROLLING BOARD

OHIO OFFICE OF BUDGET AND MANAGEMENT

MINUTES OF THE NOVEMBER 17, 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 November 3, 2003, meeting were distributed. A motion to approve the minutes was made by Representative Calvert, seconded by Senator Harris and approved by the Board members.

Attached is the November 17, 2003, meeting agenda. A motion for blanket approval of all items not held for questions was made by Senator Harris, seconded by Representative Calvert and approved by all Board members.

President Dodge announced that Item 45 appeared twice on the agenda and Item 35, DEV582-04 should be a Pioneer Rural Loan to Freeport Press. In addition, Item 63, DRC472-0405 has been revised to clarify that the beginning date of the contract is November 17, 2003, with Controlling Board approval.

The following items were discussed and acted upon as stated.

Item 2, AGO016-04 was held by Senator Roberts. Senator Roberts asked why the contract is not directly with Mr. Wiseman. Kari Hertel, Attorney General's Office said generally with large firms the Attorney General's Office awards the contract to one attorney within the firm rather than trying to appoint several attorneys within the firm for ease of billing. Although many attorneys in that firm may perform the work and in this case Bob Wiseman will perform the work, the contract will be with David Robinson. Senator Roberts asked why the hourly rate was raised from \$125.00 to \$190.00. Ms. Hertel said this is not an increase, that the rate has always been at \$190.00. Senator Roberts asked why the Attorney General's Office is awarding this contract to this firm when none of the individuals have construction litigation background or expertise. Ms. Hertel said it is her understanding that the School Facilities Commission has had contracts in the past with these three firms to do construction litigation. Senator Roberts asked why the Attorney General's Office has gone all the way to Overland Park, Kansas for this Attorney. Ms. Hertel said Mr. Glazier, of the firm Bond, Schoeneck & King, has particular expertise in such matters and how rules of the National Collegiate Athletic Association (NCAA) apply to universities and their academic and athletic programs. Senator Roberts asked if there is no one in Ohio who understands NCAA regulations and could advise and do the internal investigation. Ms. Hertel said it is her understanding from discussions with the counsel at OSU that they reviewed a number of counsels and this is the firm they chose for this particular work. Senator Roberts said in reviewing the LSC Green Sheets it does in fact show the increase for the contract with David Robinson from \$125 to \$190. Ms. Dodge said she thinks that is a dual rate. The \$190 rate is for that particular attorney with the expertise and then the \$125 rate is for associates who may work on this case in conjunction with Bob Wiseman. Senator Roberts asked why School Facilities attorneys are paid a higher hourly rate. Ms. Hertel said in discussions with School Facilities it was their understanding that the school buildings and construction that they are doing is so much an important use of public funds that it warrants additional expertise in the construction litigation area.

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Representative Patton asked with this contract in the field of expertise, whether future contracts would make this person an expert. Ms. Hertel said she don't think so. Ms. Dodge said she thinks when other representatives from the Attorney General's Office have been here they have said one of the reasons why they stagger it like they do is because it actually results in a cost savings to the State. We use David Robinson as an example, he is a less expensive attorney than the individual with the expertise so by contracting with him, say it is a twenty hour deal, they can contract for maybe 15 hours with him but will still need that five hours of expertise. So rather than paying 20 hours for the expert they can utilize less expensive attorneys for some of the time. Representative Patton asked if the firm would still have the expertise if the attorneys in that firm no longer work there. Ms. Hertel said no, in this case it is the individual with the expertise not the firm. The item was approved with Senator Roberts and Representative Patton objecting.

Item 4, UCN336-04 was held by Senator Harris. Senator Harris asked why the university was unable to encumber the funds prior to the end of the last biennium. Chuck Darling, University of Cincinnati said University of Cincinnati is the lead institution in this research consortium with the University of Dayton and the equipment is being purchased by the University of Dayton. There was a late billing, late invoice and some late follow-up paper work with the vendor that resulted in the university missing the deadline for this approval for a waiver of competitive selection. Senator Harris asked what type of action has been taken to ensure that there is some type of monitoring to not let this fall through the cracks. Mr. Darling said the university has put in place automatic electronic reminders to try to get the vendors to send their paper work in on time. The system incorporates the sister or partner university in any of these consortiums that will require them to build into the university's loop all billing and paperwork that they receive. The university will be responsible for making sure everybody is aware of the proper procedural and approval so this does not happen again. The item was approved without objection.

Item 24, AGR069-04 was held by Representative Calvert. Representative Calvert inquired about the number of claims that will be coming to the Board and if the fund is adequately funded to cover the expected claims. Todd Dickson, Department of Agriculture said the department currently is anticipating another series of claims for the next Controlling Board Meeting. The balance of the claim is based on assessment of the farmers on half cents per bushel to a four million dollar mark. Currently the fund is around 4.5 million dollars. Once it falls below the four million dollars the assessment process against the farmers will start up again. Representative Calvert asked if the department is getting close to charging higher fees in order to balance the fund. Mr. Dickson said yes. The item was approved without objection.

Item 36, DEV583-04 was held by Representative Hoops. Representative Hoops asked why the state assistance for this project is so high (85%). Tom Johnston, Department of Development said the 85% is correct however the bond is issued to investors who then put the money from the sale of the bond into the project. The state's money that goes into this project is the 166 Direct Loan and the 412 Grant. When you add those together the 166 Direct Loan is \$5,000.00 per job based upon 400 jobs being created. The Ohio Enterprise Bond Fund bond is \$25,000.00 per job. The 412, 166 and the Bond together is \$30,375.00. If you remove the Ohio Enterprise Bond Fund from the equation, because it is investor money that is infused into the project, the dollars per job would be \$5,375.00. Consequently the percentage referred to would also go down. The item was approved without objection.

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Item 49, DMR352-0405 was held by Senator Carnes. Senator Carnes asked for additional information on the 18 full-time employees that will be hired for the Medicaid redesign. Jeff Davis, Deputy Director, Mental Retardation and Developmental Disabilities said they anticipated the need to increase the department's infrastructure two years ago when they passed House Bill 94. The department was not prepared for the new influx of waiver slots so they proceeded rather cautiously over the last two and a half years in hiring people. The eighteen additional employees are primarily in the fiscal shop to deal with all of the new waivers on line, the new payment system, and the new assessment system. Senator Carnes asked if the new staff would remain with the department once the new system is implemented. Mr. Davis said yes, the eighteen would be full-time permanent employees. The item was approved without objection.

Item 52, DMR385-04 was held by Senator Harris. Senator Harris asked how the funding stream for the Advocacy and Protective Services, Inc. (APSI) is going to change based on this proposal. Jeff Davis, Deputy Director, Mental Retardation and Developmental Disabilities said before the department had contracted directly with APSI for general revenue funds only. Then APSI billed Medicaid for reimbursement for those services. The contract reflected the general revenue funds, and then APSI billed and received Medicaid reimbursement for the services delivered. The federal government said APSI could no longer bill for service coordination for individuals living in Intermediate Care Facilities for the mentally retarded (ICFs/MR), which would be the Developmental Centers. A large percentage of the population that APSI serves live in either public or private ICFs/MR. Since APSI would no longer be able to bill Medicaid for those individuals the department had to find a different funding stream to account for all of those individuals. Senator Harris said there appears to be a differential of about eight percent in this funding stream and questioned how it would be made up. Mr. Davis said the department would make up the difference internally to capture the total amount that they have committed to them. Senator Harris asked whether this change in the funding stream would be permanent for future budgets. Mr. Davis said this change is permanent. The item was approved without objection.

Item 56, DNR421-04 was held by Senator Carnes and Representative Calvert. Senator Carnes asked if this request gives authority for the purchase of the property or if the department will have to come back to the Controlling Board in the future. Chris George, Department of Natural Resources said this increase in appropriation is to an operating line item. They will not be back before the Board seeking any further approvals on this requests. Senator Carnes asked who currently owns the land and if there were any appraisals on the property. Mr. George said Thomas L. Schlachter privately owns the land and that there were two appraisals done on the property. Both appraisals came in at a value of \$240,000.00, which is the agreed purchase price on the request. Senator Carnes asked what the department's commitment would entail after the acquisition. Mr. George said the land would be managed as part of LaSuAn Wildlife Area in Williams County. It will be maintained as a wetland wildlife habitat for migratory birds and songbirds. The department sees it as a very positive purchase and acquisition for the department and for the citizens of Ohio. Representative Calvert asked what the price of the previous sale of the land was and also inquired about the real estate taxes on the property. Mr. George said he did not have that information with him but would get copies of the appraisals to the Board members. Representative Hoops asked whether the land was farmland and if it was under CAUV tax formula. Mr. George said the land is wetland but he does not know if it falls under the CAUV guideline and is not aware of a reopment issue but will check on it as well. Mr. George pointed out that there is a balance

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of about 3.7 million dollars in that fund to cover any re-coopment that might be needed if this is under CAUV guidelines. The item was approved without objection.

Item 65, SFC155-04 was held by Senator Roberts. Senator Roberts asked why there is a need for a third school building. Eric Bode, Chief Financial Officer, School Facilities Commission said in this situation there were nine buildings as part of this change as an update from their request from last year. Of the seven elementary schools that were originally in the plan, five were renovated and two built new. They now want to switch to five renovations and three new builds. Part of the change from their original master plan approval in 2002 to what they are requesting now is this change in enrollment. Senator Roberts asked whether there is a particular range they look for. Mr. Bode said they don't have a real formula but it does in law require that they look at owning buildings that are greater than 350. The item was approved without objection.

With no further business before the board, the meeting was adjourned at 2:45 p.m.

Respectfully submitted,

Francene Johnson
Controlling Board Executive Secretary

11/17/03 Minutes approved by the Board:
