DEPARTMENT OF INFORMATION RESOURCES
OPEN BOARD MEETING

Wednesday, April 22, 2015, 10:00 a.m.

300 West 15th Street, Clements Building, Room 103 Austin, Texas 78701

MINUTES

PRESENT

Charles Bacarisse
Richard Moore (Acting Chair)
Keith Morrow
Wanda Rohm
Arthur Troilo III
Bowden Hight, Ex-officio
David Mattax, Ex-officio

ACTION

Mr. Moore called the meeting to order at 10:00 a.m., with a quorum present.

Mr. Moore announced that he would change the order of the agenda items so that we would have a quorum present for all action items, in the event that any technical glitches took place with videoconferencing. The Executive Director's Report (item 3) took place after the Budget Amendment Approval (item 5).

TOPIC

2. Approve Minutes from the February 18, 2015, Board meeting

MOTION

A motion was made to approve the previous meeting minutes by *Mr. Bacarisse* and seconded by *Mr. Morrow*.

ACTION

The minutes were unanimously approved.

TOPIC

3. Executive Director's Report

DISCUSSION

Mr. Todd Kimbriel, Interim Executive Director, thanked everyone for tasking their team to be available for this out-of-sequence Board meeting. He recognized that it was a challenge with everyone's jobs, and he definitely appreciated their attendance. He thanked the Board for giving him the continuing opportunity and privilege to fill in as the Interim Executive Director. It is his privilege, and he enjoys it. He thanked the Technology Support Team: Stuart Walsh, Tim Eargle, Martin Garza, Brian Acklen, John Meroney, and Darrell from Cisco, who continue to do an outstanding job getting our Board technology in place to support the videoconferencing strategy that we have to use from time to time.

As you know, there have been a number of bills filed and in process during the 84th legislative session with regard to statewide contracting initiatives and process changes. Most bills contemplate increased oversight and reporting in areas that were previously managed by individual agencies, largely through self-regulated compliance with Government Code. Initially, some bills contained language that reduced the scope of DIR's cooperative contracts program, but "forwarded" of the legislative process of the last 3 months, that has changed. It now appears that pending legislation is aligned in both chambers with regard to impact on DIR, and it appears that DIR will receive new oversight authority to ensure use of our cooperative contracts program is compliant with statute.

Our next Board meeting is scheduled for Thursday, June 4, 2015. At that point in time, we should have precise clarity on what bills have become law and how statute will impact our operations. We expect to provide a read-out at that time of how DIR and our programs have been impacted by legislation.

Mr. Moore said that he understood that there was a representative from Atos attending today's Board meeting, and that it would be an appropriate time for him to address the members of the Board.

Mr. Kimbriel introduced Jan Veltman with Atos. He wanted to provide a statement to the Board and respond to any questions that the Board may have.

Mr. Veltman introduced himself as the Vice President of the Atos Group. He explained that he had visited Austin several times, attended several of the BELC meetings, and was a part of the whole due diligence process in making sure that the contract was transferred in a proper way. He also wanted to give DIR and DCS an opportunity to ask relevant questions. Mr. Veltman appreciated the opportunity to get a better view of the program. He was here in January, along with one of the Atos Board members, Mr. Ali, to give his commitment to the program and continue to support Texas DIR and DCS. He explained that it is important for Atos to get a better visibility of their future clients before the transaction finally closes. Atos is not acquiring the Xerox entity because of dramatic cost savings or performance improvement. Atos is really looking forward to continue operations as they are with the client, but also improve where possible. Atos has lots of time and money invested, specifically in cloud and cloud technology which will leverage the market. Therefore, as part of the due diligence process, questions came up around using that technology and moving forward and improving the program. We were grateful to pinpoint some specific areas in the contract where we think that the technology may help to improve the program. We are fully aware that this program is not finished. Atos recognizes that the value of the program lies with the agencies with data moved to that centralized environment and trust that there will be cost savings to the agencies, as well, and having that data in a data center, providing a range of advantages to sell to the agencies and continue the process of adding new agencies.

TOPIC **4. Contract Amendment Approval**

DISCUSSION *Mr. Moore* turned the meeting over to Ms. Grace Windbigler, Director, Technology Sourcing Office, and Mr. Dale Richardson, Chief Operations Officer.

Ms. Windbigler presented the data center services action item. She explained that DIR requested consent of the assignment of the DCS service component provider contract from Xerox State and Local Solutions, Inc., to Xerox disposition subsidiary 2. Ms. Windbigler explained that this assignment has no financial implications and does not affect the term of the contract. The Business Executive Leadership Committee (BELC) was initially briefed on this assignment in their January 20, 2015 meeting, and additional details were provided during subsequent meetings in February and March. The DCS Board Subcommittee was briefed prior to this Board meeting.

Mr. Richardson provided the DIR Board with additional information about the due diligence performed for this item. Last December, Xerox announced that it was selling its IT outsourcing business to a French-based company called Atos. Xerox is not selling the print and mail operations. Our contract requires that DIR approve this. In order to get to that approval, DIR has done its due diligence and looked at the formal traditional due diligence pieces. From a financial standpoint, we found Atos to be very healthy and well-capitalized.

From a legal standpoint, we found no disputes, no claims, and no irregular litigation activity. Operationally, their reference checks came back very positive and confirmed their culture of customer satisfaction as being their #1 priority. Also, we negotiated additional commitments to ensure that the transition from the old company to the new company will be well-maintained and smooth. Additional improvements will be made, where warranted, that will ensure success going forward with hitting milestones and deliverables as part of that transition. We have been communicating to our customers and our governance committees with positive feedback. At this time, DIR recommends approval and consent to assignment as we feel that this is in the best interest of the state.

Mr. Moore said that as a member of the DCS Board Subcommittee, we have discussed this on at least 3 occasions. The group has done a really good job of due diligence. He explained that he had a past experience many years ago in working with Atos and has confidence that they will do a good job taking over this contract.

Mr. Morrow added that the subcommittee had a good call last week. All questions were satisfactorily answered.

Mr. Mattox asked what liability Xerox is taking, if any.

Mr. Richardson explained that DIR has negotiated a parent guaranty from the new company. Xerox will obviously be liable for anything prior to the transition being formally approved.

Mr. Mattax confirmed that Xerox would be responsible for whatever happens until the day of transition. Mr. Mattax stated that "you are basically bringing in a brand-new company to run the system".

Mr. Richardson said that technically, we could terminate this contract either via convenience, for cause, or by mutual agreement. At this time, there is no reason or evidence to terminate for cause. We do not believe that mutually both companies would agree on terminating the contract in order to put out a rebid. If we terminated for convenience, our liability for that contract termination would be in the multi-million dollars.

Mr. Mattax explained that he understood, but said that "we don't have to give our consent to this contract, do we?"

Mr. Richardson said that explained that we did not have to.

Mr. Mattax said that what he is suggesting is that we are bringing in a brand-new company that has not gone through vetted procedures.

Mr. Richardson explained that we have done an enormous amount of due diligence to ensure that they understand the terms and conditions of the contract, as well as the expectations. Again, we feel confident that this is in the best interest of the state.

Mr. Mattax asked if that due diligence work was in writing and would that report be available to the public?

Mr. Richardson said that we have an actual consent agreement with several exhibits that ratify our commitments and terms of the deal.

MOTION A motion was made to approve the contract amendment by *Mr. Morrow* and seconded by *Mr. Bacarisse*.

ACTION The minutes was unanimously approved.

TOPIC **5. Budget Amendment Approval**

DISCUSSION Mr. Nick Villalpando, Chief Financial Officer, presented the budget amendment to the Board members for approval.

He explained that there is one item for review and consideration. At the last Board meeting, we discussed the need for a potential budget amendment during the fiscal year to increase DIR's appropriations authority and budget authority for the Data Center Services (DCS) Program, due to the increased consumption of DCS services by DIR customers. Once the forecast was completed, the plan was to call a meeting of the DCS and Audit and Finance subcommittees to allow for review of our request to the Legislative Budget Board (LBB) to exceed appropriations versus waiting until the June Board meeting to submit that request, given the time that it can take to get that approved by the LBB. Subsequent to today's Board meeting being called, we decided to present this budget amendment to the Board today for review and approval. We continue to see the demand for DCS services increasing. With the budget amendment that we are bringing forward, this would increase DCS revenues and expenditures that are required to deliver services to our customers. We will submit a request to the LBB to increase our budget authority. This amendment increases our expenditure authority by $31.4M based on our trending and our projections for customer consumption for program services. This amendment is not related to the previous discussion with respect to the assignment to Atos, as Ms. Windbigler pointed out earlier. There was no financial impact as a result of that contract amendment. This is purely a result of ongoing consumption of program services by our customers. As we have done in years past, we forecast year after year, and there are times when customer demand trends at a higher rate than what was forecasted. Based on information that we have and information that customers have submitted, we are bringing forward a budget amendment request to increase our budget authority by $31.4M to continue delivering and paying DCS.

Mr. Moore said that this is the conundrum we face due to riders and the appropriations bill that limit the amount of revenue or business that DIR can do without the approval of the LBB. This is the 3rd time that we would have done this since the riders have been in the appropriations bill. Mr. Moore said through this action items, we will approve a budget amendment and will also make that amendment contingent upon approval by the LBB. Is that correct? That way, we won't have to come back for approval.

Mr. Villalpando explained that as we have done in the past, we asked for Board approval, contingent upon approval by the LBB, and then once the increase to authority is received by LBB, we move forward in delivering the services. As a clarifying point, although we are asking the Board for a $31.4M budget amendment as stated in our policies, as well as in our original forecasts of what we have originally budgeted, we do have some appropriations authority that we can dip into to make up some of that amount. The actual request to the LBB will be around $21M. We are finalizing those numbers this week in terms of looking at our estimates, but we do not have to ask the LBB for the full $31.4M.

Mr. Bacarisse asked if the expenditure would be 100% taken up with the addition of capacity or, for example, if the legislature looked to DIR for data storage for body cams. Would you have to come back with another budget amendment later?

Mr. Villalpando explained that this budget amendment is for taking care of existing, forecasted customer demand, and everything that the agencies have communicated to us in terms of their needs and what we have been able to forecast through this fiscal year. To the extent that agencies have submitted (for the next biennium through their legislative appropriations requests (LARs)), bills have passed, agencies have communicated to the LBB that appropriations may be necessary over and above in their LARs, we would have to look at those modifications through the General Appropriations Act in making it through to DIR's appropriations.

Mr. Moore announced that Mr. Arthur Troilo had joined the meeting and would be eligible to vote on this action item.

MOTION A motion was made to approve the budget amendment by *Mr. Morrow* and seconded by *Mr. Bacarisse*.

ACTION The motion was unanimously approved.

Mr. Bacarisse asked if the Board needed to give Mr. Kimbriel the authority to sign the contract amendment, or did that amendment give him the authority to sign it.

Mr. David Brown, Assistant General Counsel, said that it would be desirable to follow up and authorize Mr. Kimbriel to sign the contract amendment.

Mr. Bacarisse said that he would be happy to make a motion, if that would suffice.

Mr. Moore said that he would entertain a motion based on the information provided by staff and on report summaries that the consent to assignment be approved and that the DIR Interim Executive Director or designee be delegated the authority to execute the consent to assignment and related documents as necessary.

MOTION A motion was made to approve the consent to assignment and that the DIR Interim Executive Director or designee be delegated the authority to execute the consent to assignment and related documents as necessary by *Mr. Bacarisse* and seconded by *Mr. Morrow.*

ACTION The motion was unanimously approved.

TOPIC **6. Public Testimony – No Public testimony.**

MOTION A motion was made to adjourn the meeting by *Mr. Morrow*, and *Mr. Bacarisse* seconded the motion.

ACTION The meeting was adjourned at 10:25 a.m.

Approved by the Board Chair:

_____ _____

Richard Moore, Acting Chairman Date