

CONTROLLING BOARD

OHIO OFFICE OF BUDGET AND MANAGEMENT

MINUTES OF THE JULY 7, 2003 MEETING

President Lisa Dodge called the Controlling Board meeting to order at 1 :56 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 June 16,2003, 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 July 7, 2003, meeting agenda. 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 announced that the amount for Item 62, JFS031-04 had been revised to \$2,517,541.00. The following items were discussed and acted upon as stated.

Item 5, UAK176-04 was held by Representative Hoops. Representative Hoops asked, in light of the difficult budget issues in the state, how this project was going to help academically. Jim Haskell, Assistant Director of Campus Planning and Space Utilization, said the renovation of the sorority/fraternity house is a unique opportunity in that it creates an area that has meeting rooms and a computer lab and lessens the demand on Carroll Hall. This gives the campus an opportunity to refurbish part of Carroll Hall for eventual classroom space. Representative Hoops asked if these are actual local funds or are these going to be state dollars? Misty Villers, Fiscal Officer, said the renovation of this facility would be from local funds. Representative Hoops asked what type of local funds. Ms. Villers said the university sold bonds in 1999. The money from the sale of the bonds was deposited and the interest earnings will be used for the renovation. The item was approved without objection.

Item 12, UCN288-04 was held by Senator Harris. Senator Harris said that recently the Board was very clear with the university about its concerns of reimbursing the university for project costs incurred prior to the university receiving approval. He noted that once again the university is coming before the Board requesting approval for a retroactive request. Chuck Darling, Senior Architect, said that in May 2003 the university's Office of Public Relations responded to the Board's concern in a letter that stated the university's intent was to follow the regulations as outlined in the current capital bill. Mr. Darling said that, however, this project was deemed an emergency since, in the process of preparing for demolition of Lawrence Hall, it was found that there were some major structural failures to the north and south wall in the armory field house. The university did not want to demolish Lawrence Hall which was helping to support that building. Senator Harris asked if the board could be given reassurance that a retroactive request will not happen again. Mr. Darling said it was the intent of the university to follow the regulations completely within the letter of the law. The item was approved without objection.

Item 23, BOR110-04 was held by Representative Patton. Representative Patton asked if there was an RFP for this project. James Nargang of the Board of Regents said there was not an RFP. Representative Patton asked if all the previous contracts were by RFPs. Mr. Nargang said he was not aware of whether they were by RFP or not. Representative Patton asked what functions the company would perform. Katherine Canada, Project Director, explained the functions and responsibilities of the

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consultants. Representative Patton asked why this company stands above other consultants beyond the fact they were judged to be the best by their previous contract. Ms. Canada said these particular contractors performed outstanding work on the previous commission and they were willing to offer the government a lower rate than they offer their other contractors. Senator Roberts asked if the previous work that the department had done was competitively bid. Ms. Canada said her only knowledge was with the previous Commission on Teaching Success and on that one there was a competitive bid process conducted. Senator Roberts said his concern was that since it wasn't a very taxing job why couldn't other companies have the opportunity to bid on the job. Ms. Canada said there was a necessity for consistency so that the people have an understanding of the full framework of policies that underlie the education arena in Ohio. Noting Senator Roberts' objection the item was approved.

Item 24, BOR111-0405 was held by Senator Harris. Senator Harris asked why the amounts in the agenda narrative were for \$31,291.70 for FY04 and \$31,921.70 for FY05 and in the Controlling Board narrative the estimated cost for the system was \$100,000 which did not include operating costs. James Nargang of BOR said the \$100,000 listed on the Controlling Board request did include operating dollars for the system. Senator Harris asked what the operating costs are and for what period that amount provided for. Mr. Nargang said he did not have the answer and would have to get back to the Board on that question. Senator Harris asked if there was a reason the Regents did not seek CB approval before the beginning of this fiscal year. Mr. Nargang said BOR did not seek CB approval prior to this biennium because the payments were less than \$50,000 a year in the previous biennium. Mr. Nargang said the agency came to the Controlling Board to request a waiver so that the agency could make payments to the leasing vendor during this current operating biennium. Senator Harris said he had other questions but needed to know the operating costs before he could support the request. President Dodge asked Mr. Nargang if he could get answers before the end of the meeting. Mr. Nargang said the one person who could help with the questions was on vacation. The item was deferred to the July 21 meeting.

Item 29, ADJ063-0405 was held by Senator Carnes. Senator Carnes asked if the request was retroactive. Michael Snow, Administrative Officer, said it was retroactive because personnel in the fiscal/contracting section misinterpreted OBM's guidance on holding Controlling Board requests for FY04. He indicated there would be two additional requests which would be submitted later that also would be retroactive. Senator Carnes asked why the Board wasn't given all three at the same time since they are all retroactive. Mr. Snow said that due to the workload of the contracting section they were unable to get them done. Senator Carnes asked what impact it would have if the Board wouldn't approve this waiver until the other two were received and act on them as a group. Mr. Snow said the impact would be late payments to the port authorities at the individual airports. The item was approved without objection.

Item 38, AFCO 19-04 was held by Senator Harris. Senator Harris asked what had caused the revised estimate to increase by about 35.5%. Dave Gruber, Chief Financial Officer, said the revised estimate reflected the fact that the agency received an additional appropriation. This request was for the Harding Home. The state owns two properties in Marion, the Harding Home and the Harding Tomb. The agency received an appropriation of \$390,000 that was for the Harding Home. Subsequently, in a different biennium the agency received an appropriation of \$138,000 through the Arts and Sports Facilities Commission. Mr. Gruber said it appears the budget was increased because of the way the request was completed but, in fact, the project was expanded to include work at the Harding Tomb as well as the Harding Home. Mr. Gruber said the projects had been combined prior to the agency entering into a contract to purchase the property. The item was approved without objection.

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Item 39, AFC036-04 was held by Senator Carnes. Senator Carnes asked what the purpose of the study is and what are the expected results. Dave Gruber, Chief Financial Officer, said the entire request is for \$350,000.00 and the studies will look at the viability and the feasibility of relocating Cooper Stadium. The first study is a survey that will solicit constituents', season ticket holders' and fans' opinions as to whether to refurbish Cooper stadium or build a new one. Senator Carnes asked if the \$350,000 is just the first installment on a lot of studies that will be done. Mr. Gruber said the \$350,000 is for the entire range of studies. Senator Carnes asked what the length of time the studies would cover. Mr. Gruber said he didn't know the exact time but probably would be six months to a year. Senator Carnes asked if Franklin County would be involved monetarily in the project. Mr. Gruber said the \$350,000 would encompass the entire amount of the studies. President Dodge asked if it was fair to say that Franklin County is not contributing toward the study. Mr. Gruber said that was correct. Senator Harris asked if the county would have any financial investment in the relocation if the studies support that. Mr. Gruber said it was his understanding that it is the county's stadium and would remain the county's stadium and their responsibility. Representative Calvert asked if it is customary on capital projects for the local community to have some matching funds in the project. Mr. Gruber said local communities have matching funds on the construction of capital projects. The item was approved without objection.

Item 40, OBM400-04 was held by Senator Roberts. Senator Roberts asked if this process had been done before. Kurt Kauffman, Debt Coordinator, said it has been done before but not since FY 2001. Senator Roberts asked what the purpose is in doing it this way. Mr. Kauffman said this was a temporary transfer of cash, that the Bond Fund (Fund 26) had run out of cash and this transfer from the GRF is to cover those invoices that were received in late June and early July. The item was approved without objection.

Item 45, DEV 483-04 was held by Senator Harris. Senator Harris asked if there are relocation costs in this request. Mr. Tom Johnston of the Department of Development said that was correct, that is the reason Development was asking for a substantive change to the request that had been previously approved by the Board. Senator Harris asked if the Board had previously approved the request with a relocation request or was Development back now to get the relocation costs approved. Mr. Johnston said that Development was requesting a change in the scope of the grant to include relocation costs. He said it was due primarily to a misunderstanding between the department, the company and the local economic development representatives. Senator Harris said he felt it was a very dangerous precedent for the Board to include relocation costs. He asked if this had been done before. Mr. Johnston said Development does not traditionally pay relocation costs. He said this was a unique situation where Development's staff made a mistake in conveying information to the company. Senator Harris asked if out of the \$400,000 from the Business Development Grant Fund was \$100,000 for new equipment. Mr. Johnston said he would assume that would be the case. Senator Harris asked if the \$300,000 relocation costs are a valid cost and there are no hidden dollars in the request for other purposes. Mr. Johnston said that was correct. Representative Calvert said there was a reason why the Board would approve this action originally because it was an electronics film which would give the state a cutting edge technology facility that could be used for many years but what we received was a facility with older equipment. Representative Calvert said the Board was paying for transportation costs rather than new machinery. He said there is a significant difference between what we got and what we agreed to buy. Representative Calvert said he had asked for but had not received a copy of the agreement between the Development and Delafoil. He said it was his understanding that it was clearly stated in the written agreement that the company was going to be reimbursed for transportation costs. He asked if that was true. Mr. Johnston said a reference was made to Development's willingness to cover relocation costs for the equipment. Representative Calvert said that before he could vote on the request he wanted to read the contract. Discussion on this item was delayed until the end of the meeting.

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After Representative Calvert had read the documents he said as a layman he would think you would be right in saying this money was to be spent on acquisition of equipment. He said he thought the contract was poorly written and urged the department to do a better job writing the scope of work in the future. He said he was going to object because he thought the state wanted to invest in new equipment for a facility on the cutting edge and this \$400,000 does not provide us with that opportunity; however, he encouraged his fellow members to vote for the request. Noting Representative Calvert's objection the item was approved.

Item 47, EDU290-04 was held by Representative Calvert. Representative Calvert said there seems to be some confusion in terms of what we're doing with this data system we're building. He said that during the budget hearings he met and talked about the fact that there is another company that is selling an EMIS-like system that is getting a lot of acceptance. He asked what this would do to both the current EMIS contract and the other contractor that is selling this system. Susan Tavakolian of the Department of Education said these are different projects. This request is looking at not how the current system operates and submits data but is looking to amplify the current system and expand it so the department has data that is useful to both the department and the teachers regarding student achievement and improvement. Robert Lukhart of the Department of Education said this request is looking at the system from the standpoint of data exchange, meaning having data valuable to a teacher in a classroom as well as to the state and federal government, and then passing that data up the reporting chain. Representative Calvert asked if anyone has looked at what the cost of implementing such a system would be. Ms. Tavakolian said the department thought the cost would be in the one to two million dollar range one million for FY05 and possibly some additional money at the end of FY04. Senator Harris asked if this request is to do a study to look at a different system or is the department refining the same system to provide additional resources and, if so, what happened to all the money that has been spent to this point that obviously is not accomplishing what it was intended to do. Ms. Tavakolian said that EMIS isn't all-encompassing and this request is to design a system, which will collect student improvement information. She said the data the department collects now is required either by rule or law and is mostly useful to the department. Senator Harris asked if the department doesn't know what it needs or how to get it and now wants to do another study. Ms. Tavakolian said the studies were focusing on different aspects. The study that is ongoing for which we do have software that school districts can use focused on the operational issues of attendance and how we can keep students. This system is going to focus on issues of student achievement. Senator Harris said he would ask the department to withdraw the request and come back to the next Controlling Board meeting with justification showing the department has included district input in this study to ensure the data the department is looking for matches what the districts are looking for. Senator Harris said he would like assurance that the local school districts are going to be included in this study where their needs and interests are taken into consideration as well as the department's. Ms. Tavakolian said the department could assure the Board that is going to happen. President Dodge asked if the Board wanted the department to defer the request with the plan to come back to the meeting on July 21. Ms. Tavakolian said the department could defer it until that meeting and provide the Board with information that would raise the Board's comfort level with the request. The Board agreed to delay the request until the July 21 meeting.

Item 49, EXPO02-04 was held by Senator Roberts. Senator Roberts asked about the language in the contract that stated the employees must be conversant in the English language. He questioned why the provision was put in the contract. Doug Smalley, Finance Director, said he was unable to answer the question and that he would have to get further clarification for the Board. Senator Roberts said it bothered him that we're discriminating against individuals who may not be conversant in the English

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language and that we're putting that in the contract with the individual. The item was approved without objection.

Items 52, DOH087-04 and DOH088-04 were held by Senator Carnes. Senator Carnes asked if there would be coordination in the near future between the Department of Health and the newly created Office of Homeland Security to ensure there will be better communication and medical action if a biological terrorist attack does occur. Sean Keller, of the Health Department, said that coordination is taking place now and that, although the Office of Homeland Security was just recently established through H.B. 95, the Department of Health has been a key player and a member of the security task force which includes agencies throughout the state of Ohio coordinating the different roles and activities that each particular agency will undertake should there be an incident. The items were approved without objection.

Item 56, IGO007-04 was held by Senator Harris. Senator Harris asked what the emergency purpose funds would be used for. Tom Charles, Inspector General, said with the additional money he would hire an investigator and a clerical person. Representative Calvert said his observation was that the \$100,000 was no longer an emergency purpose contingency fund that it was initially created for but had become part of IGO's budget. He suggested that it be rolled into IGO's operating budget, since it doesn't serve the purpose for which it was created. Senator Harris said he agreed and recommended that instead of having the money in a reserve fund it ought to be rolled over into IGO's regular budget. President Dodge said the next time IGO submits its budget request to the General Assembly that the \$100,000 should be included as part of the operating budget. The item was approved without objection.

Item 58, JFS024-0405 was held by Senator Harris. Senator Harris asked what Dr. T.J. Redington's involvement would be relative to the Medicaid program. Christopher Carlson, Deputy Director, said the department needed to have a practicing licensed physician who is extremely qualified for this role to help guide the department in decisions of changes or direction of the Medicaid program. The doctor will ensure that the quality of care to the Medicaid population is maintained and that cuts made for business reasons are made with the full knowledge of how that would impact the quality of care for the citizens of Ohio. The item was approved without objection.

Item 64, LOT023-0405 was held by Senator Roberts. Senator Roberts asked with this bid coming in so low was the department comfortable that this advertising firm would be able to perform the task. Jason Paduchick, Legislative Liaison, said Stem Advertising handled the contract in the previous biennium and the Lottery Commission is comfortable with them providing the work. The item was approved without objection.

Item 70, DNR142-04 was held by Senator Roberts. Senator Roberts asked if the company who is doing the assessment will be participating in the next stage of the process. Mindy Bankey of the Department of Natural Resources said they will be preparing the documents for the next phase of the project. The actual construction project will be competitively bid. The company will have a role but will not be potential bidders. Senator Roberts said that since the company was a part of the original assessment and they now will be participants in the next phase of the process, did their assessment set them up to be active participants in the next phase? Ms. Bankey said it is typical when the agency has consultants that are doing the scope of the work that they assist in the preparation of the construction documents. Senator Roberts said it does not sit well for a company to be a part of the first phase, the assessment phase, and then also to be a part of the second phase. Director Speck said since the company had been on site and had done the initial work it appeared to the department that the company could produce quicker studies so that DNR could move ahead more quickly with the improvements.

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DNR had found all of the balconies on the lodge had problems, which necessitated their closure. Director Speck said the department wanted to move ahead quickly in getting the facilities improved and the idea of expediting this improvement was a key element. He said the company was not going to be doing construction, simply developing the information that is needed. The item was approved without objection.

Item 75, DNR383-04 was held by Senator Carnes. Director Speck of the Department of Natural Resources said he wanted to alert the Board to the large implications of the RTG case which could drain the state's resources and destroy the coal mining regulatory program. He said this request of \$360,000 takes about 10% of the mining regulatory budget in the coal mining area and the department anticipates that the results of this case will end up taking the entire budget. He said the courts have ordered the department to pay the attorneys for the Village of Pleasant City and also to pay the attorneys' fees and ultimately the takings cost of the other side in the case. He said it would eliminate DNR's ability to carry out the regulatory program. The item was approved without objection.

Item 78, DRC438-04 was held by Senator Harris. Senator Harris asked why the estimate was \$5,000,000 over budget. Bruce Curtis, State Architects Office, said that when Phase 1 was begun they found major mortar damage and that wall ties had been omitted. Instead of only surface repair they had to do major structural replacement. The item was approved without objection.

Item 82, SFC130-04 was held by Senator Roberts. Senator Roberts asked what process these companies will use as they assess the changes in the design manual. Steve Lutz of the School Facilities Commission said they direct the consultants to review and create generic specifications for the design manual. Specific projects have specifications developed that are unique to their needs. The school districts select and contract with a design firm in order to prepare project manuals for their construction project and in some cases those architects and the school district may specify a product that may have less than three manufacturers. Senator Roberts asked if the districts have the option to not use the recommendations in the design manual. Mr. Lutz said Ohio law does require that they comply with the standards of the commission. He said that last year the commission changed its policy to make it a requirement that if proprietary specifications were used that the designer would be required to name three manufacturers that could meet the requirements of the design. Mr. Lutz said as the commission reviews suggestions for updating the manual, it looks to incorporate improvements or changes in technology so that the document stays current with the practices of the industry. The item was approved without objection.

The meeting adjourned at 4:30 p.m.

Respectfully submitted,

Emily Sams
Controlling Board Secretary

07/07/03 Minutes approved by the Board
