

**MINUTES OF THE
WEST VIRGINIA ENTERPRISE
RESOURCE PLANNING BOARD**

January 7, 2019

In accordance with Chapter 12, Article 6D, Section 1, of the West Virginia Code, a meeting of the West Virginia Enterprise Resource Planning Board (WV ERP) was held on January 7, 2019, in the State Auditor's Conference Room, Building 1, Room W-100, Capitol Complex, Charleston, West Virginia. Due notice was given of the meeting and filed with the Secretary of State for publication in the State Register.

I. Call to Order and Roll Call of Members

The meeting was chaired by Auditor John B. McCuskey, and called to order at 10:32 a.m. A roll call was taken with a quorum present consisting of the following Board Members:

Ann V. Urling - Representing Governor James C. Justice, II (by telephone)
John B. McCuskey – State Auditor
Josh Stowers – Representing Treasurer John Perdue

Also in attendance were:

Kent Hartsog, WVSAO
Vincent J. Smith, WVSAO
Stephen R. Connolly, WVSAO
Lisa Hopkins, WVSAO
Lea Ann Richards, WVSAO
Kevin Jordahl, CGI

II. Approval of Minutes of November 16, 2018 Meeting

Mr. Stowers moved that the Minutes from the November 16, 2018 be approved. Ms. Urling seconded the motion. All members voted to approve the minutes.

III. Project Management Updates

A. Infrastructure Upgrade

Mr. Hartsog advised that the Infrastructure Upgrade is complete and the actual cost of this upgrade was \$50,000.00 less than the initial estimate and has eliminated some processing time which has allowed payroll to be processed earlier and has helped in other areas.

B. Kronos Upgrade

The Kronos Upgrade attempted to go live in early December 2018 and was taken down because two problems were identified. Kronos fixed the problems and adjusted the billing. The upgrade is expected to go-live again later this week.

C. Advantage Software Upgrade Status Update

The Advantage Software Upgrade, Amendment 14 and Amendment 15 may be delayed as a result of receipt of a letter from outside counsel for CGI alleging the State had improperly touched CGI's source code, which the State through the ERP staff disputes.

IV. Amendments to CGI Contract

A. Amendment 16

Amendment 16 to the contract with CGI would enable the State to implement the Grant Lifecycle Management module to provide end-to-end Grant reporting at an estimated cost of \$298,000.00 to be reimbursed from the Governor's Office or a combination of state offices under the authority of the Governor. CGI prepared a proposal dated October 2018. ERP has been planning with the Governor's Office for use of the grant software for further efficiencies it can provide the State. CGI is requesting an Amendment in regards to the software. The Amendment has not been drafted as of yet, but Mr. Hartsog is requesting the Board's approval to proceed with this amendment. Mr. Hartsog informed the Board that he would not proceed forward with this Amendment until he has approval from the Governor's office. Also, if there are any substantial changes in the amendment that would be different than the proposal, Mr. Hartsog will advise the Board before proceeding forward with the amendment.

Mr. Stowers moved that the Board adopt Amendment No. 16 to the contract with CGI Technologies and Solutions Inc. Ms. Urling seconded, and the motion carried unanimously.

It was clarified that this amount of \$298,000.00 would be reimbursed back to the project from outside agencies. Mr. Hartsog is working with Ms. Urling to ensure that a MOU is in place regarding the reimbursement. This software will assist in managing the finance and payments of grants.

B. Amendment 17

The purpose of Amendment 17 is to allow the removal of the Agile Assets software licenses from the CGI Contract and would allow the ERP staff to negotiate a contract directly with Agile Assets. Currently, CGI contracts directly with Agile Assets and then passes the cost to the State. This amendment would allow direct negotiations with Agile Assets separate from the CGI Contract. This amendment will not require additional costs to the CGI Contract.

Mr. Stowers moved that the Board adopt amendment 17 to the contract with CGI Technologies and Solutions Inc. to remove the Agile Assets software licenses from the contract. Ms. Urling seconded, and the motion carried unanimously.

V. Contractual Issues (Executive Session)

Mr. Stowers moved to recess the Board meeting until 3:30 p.m. to allow Ms. Urling to attend in person regarding Agenda Item No. V. Ms. Urling seconded, and the motion carried unanimously to resume the meeting on January 7, 2019 at 3:30 p.m.

MINUTES OF JANUARY 7, 2019 RECONVENED MEETING

The meeting was chaired by Auditor John B. McCuskey, and called to order at 3:30 p.m. A roll call was taken with a quorum present consisting of the following Board Members:

Ann V. Urling - Representing Governor James C. Justice, II
John B. McCuskey – State Auditor
Josh Stowers – Representing Treasurer John Perdue

Also in attendance were:

Kent Hartsog, WVSAO
Vincent J. Smith, WVSAO
Stephen R. Connolly, WVSAO
Lea Ann Richards, WVSAO
Monika Jaensson, Dinsmore & Shohl LLP

V. Contractual Issues (Executive Session) - Continued

Auditor McCuskey resumed the meeting and noted that Kevin Jordahl of CGI was present for the morning portion of the meeting, but was not in attendance during the afternoon session of the meeting.

Mr. Hartsog provided some context for a letter sent to the West Virginia State Auditor's Office from CGI dated December 12, 2018. This letter was received without prior notice or discussion with the Auditor's office and was a considerable surprise. The issues contained in the letter had only previously been mentioned by (1) a letter from CGI dated July 12, 2016 and (2) CGI's in-house counsel Linda Mitchell mentioned it during a conference call with Lisa Hopkins approximately one week prior to receiving the letter.

The letter raises an issue with CGI's source code and enhancements. Since the contract was signed in 2011, the normal course of dealing is that the State would make some enhancements on its own and with CGI's knowledge. CGI questioned the practice in its letter of July 12, 2016, but dropped the issue until the December 12, 2018 letter. Mr. Hartsog advised that Amendments 14 and 15 and the software upgrade have been delayed because of this issue.

CGI has also allowed an issue to arise with Oracle Compression software. CGI put Oracle Compression software on the State's machines in approximately 2012 or 2013 but never registered the software with Oracle or paid for any required Oracle licenses.

Oracle performed an audit on the State's software and found that it was on the State's system and demanded payment. It is the State's position that the CGI contract and deliverables support that this payment is CGI's responsibility. However, Oracle is seeking payment from the State because it is on the State's machines. Mr. Hartsog advised that he is unsure of the total amount due, but estimated it could be anywhere from \$300,000 to possibly over \$1,000,000. Mr. Hartsog further advised that there have been previous software issues where CGI allowed licenses to lapse and those issues were resolved favorably wherein CGI paid for the renewals. Mr. Hartsog advised he is having difficulty getting CGI to

engage in a conversation regarding this Oracle issue. If Oracle was removed from our system, it would make it much harder to run our system.

Mr. Hartsog advised that other service issues with CGI persist including: ACA Reporting; 1099 issues; travel software; retainage issues from Phase D not completed; Upgrade plan took CGI 6 months to present an agreement and 5 months for the first draft of the Upgrade Plan contract Amendment; refused additional work; refused to bid on additional work; refused to provide LOE's for additional enhancements; responsiveness on remedy tickets has been poor; one hot-fix CGI performed for a P-card issue made matters worse and it may need pulled out of production to fix the problem; failure to participate in contract discussions for post December 2019 when the current contract expires; no response to emails on December 6, 2018 with a list of service issues and invitation to discuss; and low confidence level in CGI for critical issues.

A brief discussion clarified that CGI's position is that only CGI can touch its code and the State may not. There is currently \$500,000.00 of payments due to CGI that are currently on hold because of these issues. CGI was paid \$1,800,000.00 for the 2018 maintenance fees in early December, 2018. Mr. Hartsog found out this morning that CGI is putting travel restrictions to West Virginia on its employees.

Mr. Stowers moved that the Board go into Executive Session to discuss litigation strategy. Ms. Urling seconded, and the motion carried unanimously.

Following the Executive Session, the meeting was resumed. No decisions were made.

Auditor McCuskey moved that his General Counsel along with the wvOASIS Executive Director draft communication to CGI of our willingness to enter into a stipulation agreement which would allow Amendments 14 and 15 and the Upgrade Plan to be implemented while issues raised in the December 12, 2018 letter are resolved. The new contract amendments would include any language that was previously agreed to by CGI.

Mr. Stowers seconded, and the motion carried unanimously.

Auditor McCuskey further addressed the December 12, 2018 letter. The Board is concerned with its possible ramifications and will ask the West Virginia Attorney General to put out for bid a request for legal services from qualified counsel to advise the Board on the issues raised by the letter. The Auditor noted that Monika Jaensson, counsel for Dataview, was present at the meeting and she is defending

Dataview against a similar letter from CGI. Auditor McCuskey further noted that Dataview provides a valuable service to the ERP system.

Auditor McCuskey moved that the Board request the Attorney General find such counsel as previously stated to represent the ERP Board with regard to the December 12, 2018 letter. Ms. Urling seconded, and the motion carried unanimously.

Auditor McCuskey requested that Steve Connolly, Special Counsel for the West Virginia State Auditor, draft a letter to the West Virginia Attorney General's Office and work with the Attorney General's Office to obtain outside counsel. Mr. Connolly was directed to reach out to the West Virginia Board of Risk and Insurance Management (BRIM) regarding insurance coverage for this matter. There was a brief discussion regarding the cost of the potential litigation, current funding and the need to advise the legislative Finance Committee of the potential cost of litigation.

VI. Public Comment

There were no public comments.

VII. New Business

There was no further new business before the Board.

VIII. Adjournment

Auditor McCuskey moved to adjourn the meeting at 4:21 p.m. Mr. Stowers seconded, and the motion carried unanimously.