

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
APPROPRIATIONS COMMITTEE HEARING
BUDGET HEARING

STATE CAPITOL
MAJORITY CAUCUS ROOM
HARRISBURG, PENNSYLVANIA

MONDAY, MARCH 3, 2008, 9:00 A.M.

VOLUME I OF V

PRESENTATION ON
DEPARTMENT OF GENERAL SERVICES

BEFORE:

HONORABLE DWIGHT EVANS, CHAIRMAN
HONORABLE MARIO J. CIVERA, JR., CHAIRMAN
HONORABLE STEPHEN E. BARRAR
HONORABLE CRAIG A. DALLY
HONORABLE GORDON R. DENLINGER
HONORABLE BRIAN ELLIS
HONORABLE DAN B. FRANKEL
HONORABLE JOHN T. GALLOWAY
HONORABLE WILLIAM F. KELLER
HONORABLE THADDEUS KIRKLAND
HONORABLE BRYAN R. LENTZ
HONORABLE TIM MAHONEY
HONORABLE KATHY M. MANDERINO
HONORABLE MICHAEL P. MCGEEHAN
HONORABLE FRED McILHATTAN
HONORABLE DAVID R. MILLARD
HONORABLE RON MILLER
HONORABLE JOHN MYERS
HONORABLE CHERELLE PARKER
HONORABLE SCOTT A. PETRI

1 BEFORE: (cont'd.)

HONORABLE SEAN M. RAMALEY

2 HONORABLE DAVE REED

HONORABLE DOUGLAS G. REICHLEY

3 HONORABLE DANTE SANTONI, JR.

HONORABLE MARIO M. SCAVELLO

4 HONORABLE JOHN SIPTROTH

HONORABLE MATTHEW SMITH

5 HONORABLE KATIE TRUE

HONORABLE GREGORY S. VITALI

6 HONORABLE DON WALKO

HONORABLE JAKE WHEATLEY, JR.

7

8 ALSO PRESENT:

MIRIAM FOX

9 EDWARD NOLAN

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DEBRA B. MILLER
REPORTER

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1 CHAIRMAN EVANS: Good morning, Mr.
2 Secretary.

3 The House Appropriations Committee would
4 like to convene the hearing.

5 We have the Secretary of General Services
6 before us, but what is more exciting, Mr. Chairman,
7 is this is the last week, isn't it?

8 CHAIRMAN CIVERA: That's right. I'm smiling
9 on that one.

10 CHAIRMAN EVANS: Mr. Secretary, what we
11 basically do, we don't take testimony; we kind of
12 go right to the questions from members of the
13 committee.

14 I would like to start off with, can you, in
15 a very specific way, talk about how your department
16 has done savings relating to the Commonwealth of
17 Pennsylvania from things such as energy, other kinds
18 of ways, procurement, things of that nature? Can you
19 talk about what kinds of savings have been to the
20 taxpayers?

21 SECRETARY CREEDON: Sure. I would be happy
22 to do that, Mr. Chairman, and good morning, everyone.
23 I'm glad to kick off your last week.

24 The savings is really probably the most
25 critical function for DGS, since we are sort of the

1 back-room operation of the entire Commonwealth
2 governmental business.

3 We have the opportunity to save money in
4 multiple areas. I will mention a few of them for you
5 this morning, and let me start with the energy side.

6 One of the things that the Governor has been
7 pursuing is an aggressive energy agenda, and one of
8 the requirements he asked of DGS is that we set an
9 example and manage our energy very effectively and
10 also reduce our costs in the process.

11 We have been successful in reducing the
12 consumption of energy in DGS-operated buildings by
13 about a little bit over 10 percent now. Over goal is
14 to go to about a 20-percent reduction. That means
15 about a \$1.6 million per year operating savings just
16 from that reduction alone.

17 We are also in the process of doing a number
18 of what are called ESCO projects. Those of you who
19 may have offices in the--- I don't think there are
20 any House offices in the North Office Building, but
21 in the Irvis Office Building, we are starting to see
22 the real beginnings of the ESCO projects in your
23 offices.

24 These are projects where we have energy
25 companies come in and do things such as change out

1 the windows and put in windows that are insulated.
2 They come in and they take water conservation
3 measures. They help us with lighting controls. And
4 we anticipate that we will save about \$44 million
5 through the development of these ESCO projects.

6 Just to put this in perspective, too, beyond
7 dollars. The BTU consumption reduction alone is
8 equivalent to enough BTUs to power about 23,000 homes
9 throughout the Commonwealth. And from an emissions
10 reduction perspective, the fact that DGS, through
11 these initiatives, has been able to reduce our
12 consumption, it is equivalent to taking about 20,000
13 cars off the road.

14 So there are, in addition to the hard-dollar
15 savings, there are also some very serious
16 environmental savings as well.

17 Another major area for savings for us is on
18 the purchasing side. You have often heard the note
19 that the Commonwealth has about \$4 billion in our
20 procurement operation. We have been successful now
21 in saving about 212 and growing of dollars through
22 our smart buying, our strategic sourcing initiatives.

23 In addition, we have a COSTARS program,
24 which takes the concept of the smart buying and
25 broadens it, opens it up not just to small businesses

1 but also opens it up to municipalities and school
2 districts.

3 We have a little bit over 5,000 participants
4 in that program. They did about \$195 million worth
5 of spend in that program last year, and we estimate
6 that they saved about \$15 to \$20 million by operating
7 within our program.

8 The other area of savings is on the public
9 works side. Probably the measure we are most proud
10 of is, in 2002 the Commonwealth was running a
11 change-order rate on our construction projects that
12 was almost 20 percent, unheard of in the
13 construction industry. Through the hard work of the
14 folks in public works last year, our change-order
15 rate is now down to 4.5 percent.

16 It is avoided cost in capital dollars of
17 probably about \$50 million. That is \$50 million that
18 we either don't have to borrow or can be put into
19 other capital projects.

20 So those are just a few of the major cost
21 savings initiatives that we have been involved in.

22 CHAIRMAN EVANS: I know the Governor made a
23 commitment toward minority participation. Can you
24 talk a little bit about what exactly and where are
25 things in terms of procurement, involvement in terms

1 of contracts? Things of that nature -- minority
2 participation?

3 SECRETARY CREEDON: Sure.

4 One of our goals was to take our level of
5 minority- and women-owned business participation from
6 what we had said at the time, which was probably
7 about 2 percent, and actually as we have gone through
8 the numbers, it probably was under 1 percent in 2002
9 and the early part of 2003.

10 We have now got over our goal of 10-percent
11 participation. Our mission now is to try to sustain
12 those numbers.

13 That participation rate is divided. About
14 60 percent of it is women-owned businesses and about
15 40 percent of it is minority-owned businesses. And
16 interestingly, we track this quarter to quarter.
17 That 60/40 split almost stays right on each and every
18 quarter.

19 This 10-percent spending represents last
20 year about \$45 million in spending directly to
21 minority- and women-owned businesses. And keep in
22 mind, while we spend \$4 billion through procurement,
23 we have to look at those percentages based on what
24 the annual available spend has been, what we have
25 been able to effect that year.

1 So last year, actually the number of RFPs
2 that we issued was down a little bit. We only had
3 about \$450 million worth of spend that we could
4 directly attribute to reach our 10-percent goal.

5 We have a lot more to go, though. A couple
6 of measures we have taken. We now have lifted the
7 points available in a procurement from about 10
8 percent for your MBE/WBE participation to now 20
9 percent.

10 We are also aggressively pursuing more
11 participation by firms to participate in our program,
12 because we find that as much as we want to see our
13 numbers grow, if we don't get minority- and
14 women-owned businesses participating in our programs,
15 we can't grow the program.

16 We are also involved in improving our
17 enforcement capabilities so that when companies say
18 there is going to be minority- or women-owned
19 participation, that by the time they operate the
20 contract and complete the contract, that the level
21 that they committed to is there.

22 And also, we are involved now with DCED in
23 looking at this, not so much as how do you involve
24 companies within the procurement process, but how can
25 we tie in with DCED from a small business

1 perspective, bond programs, business assistance
2 programs, so that if you are fortunate enough to be
3 part of a Commonwealth contract, can we give you some
4 assistance in business planning, maybe tax planning,
5 other areas, so that you are successful in the
6 contract?

7 And the last year, I will mention quickly,
8 we are also increasing our presence within the
9 Hispanic community. This is an area within our MBE
10 spend that has been historically low.

11 We made some structural changes. Our
12 eastern regional staff has recently opened up a 1- or
13 2-day-a-week office in the Lehigh Valley so that they
14 can be more involved with the Hispanic community,
15 both in the Allentown and Bethlehem and Easton area
16 but also over into Reading, and that we can start
17 seeing some more involvement in the Hispanic
18 community in these programs.

19 CHAIRMAN EVANS: Chairman Civera.

20 CHAIRMAN CIVERA: Thank you, Mr. Chairman.
21 Welcome, Mr. Secretary.

22 SECRETARY CREEDON: Good morning.

23 CHAIRMAN CIVERA: I was just wondering,
24 because I guess about 2 months ago or 3 months ago an
25 announcement was made in regard to the State Building

1 in Philadelphia, that it was sold. I visited that
2 building many times, and I know that it wasn't in the
3 greatest condition, but I did notice that every part
4 of that building was occupied and it was mostly all
5 State employees.

6 What happened to the State employees in the
7 departments that were in that in the southeast, and
8 what happened when you sold? Did you own the
9 property? Did the State own the property? What did
10 we do with the money? I was just curious---

11 SECRETARY CREEDON: Sure.

12 CHAIRMAN CIVERA: ---because, I mean, that
13 is a focal point, that that is the State Building,
14 and there were certain different departments there,
15 and now they are scattered, my understanding is
16 throughout the city. Could you give me some update
17 on that, please?

18 SECRETARY CREEDON: Sure. They are not
19 scattered throughout the city. As a matter of fact,
20 they are still in the building. The building has an
21 agreement of sale but has not been sold yet. We
22 anticipate about this time next year we should be
23 moving.

24 We have an agreement of sale to sell the
25 building for about \$25 million. I think it is a

1 little bit over \$25 million. We just signed a letter
2 of intent to move to lease space at Eighth and Market
3 Street. Actually, two locations. One is at Eighth
4 and Arch and one is at Eighth and Market Street in
5 the center-city business district. The employees who
6 are based in the Philadelphia State Office Building
7 will move to one of those two locations.

8 The Eighth and Market Street location will
9 be primarily DPW as well as the Public Utility
10 Commission, the Insurance offices, and really be kind
11 of the areas that are, with the exception of DPW,
12 which, by the way, is not a county assistance office
13 in this location, is not an area that has a lot of
14 traffic from customers, from the taxpayers.

15 The reason we are opening an additional
16 facility at Eighth and Arch Street, that is going to
17 become the Customer Service Center. So that is where
18 the Department of Revenue be will. That will be
19 Labor and Industry, workmen's compensation offices
20 and hearing offices, the Department of Health for
21 Vital Records. So for the individuals, it will be a
22 little bit easier access, although both have great
23 public access within the city of Philadelphia.

24 The transaction you mentioned about the
25 building needing a lot of investment, if you take the

1 avoided investment costs of renovating a building,
2 combine the recovery, the \$25 million in the sale
3 proceeds, and you take the fact that we have been
4 able to negotiate a very aggressive low market rate
5 based lease at Eighth and Market Street. We
6 anticipate over a 20-year planning period. The
7 Commonwealth will save just about \$30 million.

8 So to answer your question, we have not
9 moved yet. They will still all be in one location;
10 they will not be spread throughout the city, except
11 for the separation of the Customer Service Center and
12 the base operations.

13 CHAIRMAN CIVERA: How are those locations
14 determined? The reason I asked the question is that
15 I represent Upper Darby.

16 Upper Darby Township is right next to the
17 city of Philadelphia and has the transportation
18 system, probably it is the hub of the southeast,
19 where you can get in and out of Delaware County or
20 Philadelphia by going on it, and I was always
21 wondering--- Plus, we don't have a city wage;
22 Philadelphia does.

23 How are those locations prioritized and
24 picked? You know, is it the city versus the suburban
25 communities, or could you give me some idea?

1 SECRETARY CREEDON: Well, for the situation
2 involving both the Pittsburgh State Office Building,
3 which will be happening shortly in the same model as
4 Philadelphia, we made the commitment to the city
5 officials that we are not going to leave the
6 center-city area. And actually, through a lot of
7 discussions I had with the Philadelphia delegation,
8 both the House and the Senate, the view was that they
9 prefer we find a new location within the central
10 business district, even within the city of
11 Philadelphia.

12 Both the sale and the lease were conducted
13 through an RFP process. The sale was authorized by
14 legislation, which the General Assembly passed, I
15 think, in July of last year, and it was a competitive
16 process. I think we had about five or six bidders
17 for the sale of the building, and we had about five
18 bidders for the lease space for the building.

19 But the commitment was made that, we had
20 been in downtown Philadelphia for as long as we have
21 had offices in downtown Philly, we were going to stay
22 in downtown Philly.

23 Now, what we do, however, what we do look at
24 is when we are out in, let's call them the more
25 suburban areas or the suburbs, and it is tough to

1 define that sometimes in southeastern Pennsylvania,
2 we do make a commitment, though, that we do, as much
3 as possible, put our facilities in downtown
4 locations. And I think it was 91 percent of the
5 leases that were rebid or relocated last year by DGS
6 were placed in downtown locations.

7 But downtown can be defined, and it can be a
8 small town. What we are trying to avoid is going out
9 into greenfield developments, out into industrial
10 parks. Sometimes the agencies love it there because
11 there is plenty of parking, and as I always say, the
12 sun always shines and, you know, there is no snow and
13 everything is perfect. But we prefer to put people
14 in Williamsport and in Allentown and in Conshohocken
15 and in Erie and put people in downtown locations
16 where they can have an impact.

17 CHAIRMAN CIVERA: Okay. Well, you need
18 transportation, and that is how you--- I agree with
19 that. Okay. Thank you.

20 CHAIRMAN EVANS: Representative Katie True.

21 REPRESENTATIVE TRUE: Thank you, Mr.
22 Chairman.

23 Good morning, Mr. Secretary.

24 SECRETARY CREEDON: Good morning.

25 REPRESENTATIVE TRUE: Can we talk about bids

1 and no bids?

2 SECRETARY CREEDON: Sure.

3 REPRESENTATIVE TRUE: My husband is a small
4 businessman. This is an important issue for us,
5 because he is a small general contractor and he has
6 to bid on everything, in order to, you know, bid
7 against other folks, and it just seems to work out
8 very well if you have the low bid. And I know under
9 discussion you have a project that you are going to
10 extend a bid without putting a bid out there for
11 other people to jump on board.

12 And I guess it is kind of convoluted here,
13 and I'm sorry about that, but when you did the
14 outsourcing, when the Governor first came in and you
15 started outsourcing, we lost a business in the city
16 -- they happened to be my constituents -- and they
17 were very concerned about how the bid process worked.
18 And this was a longstanding business that now is out
19 of business, and they are still unhappy about it, and
20 I hear from them on a regular basis.

21 But combining that whole mentality, I would
22 like to know how that is working, number one, and I
23 would like to know, you know, just to hear from you
24 on the record the way of doing business without
25 asking bids, other than it has a smooth transition

1 and so forth and so on.

2 I personally believe that the bidding
3 process is a good thing, and I would just like you to
4 comment about that.

5 SECRETARY CREEDON: And so do we.

6 The way you successfully run a procurement
7 operation is to have maximum competition possible,
8 and let me begin by talking maybe first about the
9 strategic sourcing initiative which you mentioned,
10 and then let me talk specifically, I believe it is
11 about the Unisys contract, which I think is really
12 the question.

13 Let me begin on strategic sourcing. The
14 program continues to go very well, but I have to
15 emphasis, while it is called strategic sourcing, a
16 lot of people have called it sole sourcing -- quite
17 frankly, incorrectly.

18 Strategic sourcing is an extremely
19 competitive process that drives the cost of goods and
20 services down for the taxpayers. What it does is it
21 looks at the Commonwealth as a whole, from how much
22 do we buy altogether as opposed to having individual
23 buying decisions made in very small groups of
24 agencies, or sometimes very small agencies.

25 Let me give you an example. In the past, an

1 agency that needed a copier basically could go out to
2 a series of contracts that had been bid, but had some
3 prices on them and had some requirements on them, and
4 pick whichever one they could, quite frankly, afford.

5 Our approach has been to say, we expect to
6 buy across all our agencies 300 copiers this year or
7 a thousand copiers this year through a very
8 competitive process to a number of different
9 companies: What is your price going to be for
10 copiers? So we drive the price down for the most
11 cost-effective copier available for the Commonwealth,
12 and then the agency must buy that type of copier.

13 So it did have some impact on some
14 businesses throughout the Commonwealth who had been
15 used to doing business on a small basis with some
16 number of agencies, and actually the Senate is
17 completing a pretty comprehensive study on the impact
18 of strategic sourcing on some of those businesses.

19 We have been working--- We supported the
20 study, supported the resolution, which was introduced
21 by Senator Wonderling. Our Deputy for Procurement,
22 Curt Topper, has been working with the committee to
23 really help us get an understanding of it as well to
24 see if there are some structural changes we need to
25 make.

1 As I transition over to Unisys, let me be
2 very clear that the idea that the Rendell
3 Administration is not competitively bidding projects
4 is completely incorrect, and let me give you a
5 statistic, and I have a chart.

6 In 2001-02, there were almost a thousand
7 sole source contracts authorized by the previous
8 Administration. I read in the paper this morning
9 that the previous Administration was very, very, very
10 conservative in authorizing sole source contracts.
11 It was an anonymous source, I believe. We are
12 averaging about 300 per year. So if they were very,
13 very, very conservative, I guess we must be very
14 six-times conservative.

15 The idea, the way we look at some of these
16 business models is competition can come in two ways.
17 The first way competition can come is to make the
18 decision that based on the product or based on the
19 service that we need to acquire, that it makes sense
20 to do an RFP, or in some cases a strict bid, to a
21 number of different companies, and we do that in, I
22 would say, probably about 80 percent or 85 percent or
23 maybe even more of our situations.

24 At other times, when you have a service such
25 as IT services, Prison Health Services, sometimes

1 information technology consulting, and you have an
2 infrastructure that is built up within the
3 organization that, quite frankly, is going to cost a
4 lot of money to transition to a different system, you
5 ask yourself whether you can create competition
6 without going out to the marketplace, where you might
7 get a different vendor, you might get a better price,
8 but you are going to spend a lot of money
9 transitioning from your current vendor to a new
10 vendor.

11 In the case of Unisys, the analysis was done
12 with the investment that we have had since 1999 in
13 working with Unisys in the Data PowerHouse. And if
14 you have ever had a chance to go out and see the
15 Data PowerHouse, you would understand the level of
16 investment that is there.

17 The decision was made, well, before we go to
18 the market -- and again, keep in mind what I said,
19 "before we go to the market" -- let us see whether we
20 can work with the existing vendor to get a price
21 reduction that will preserve the investment we have
22 made currently in that infrastructure, avoids the
23 very expensive transition costs, plus the disruption
24 to a very key system to operate this Commonwealth,
25 and if we can get that level of savings that we want,

1 which in the case of Unisys is \$240 million over the
2 life of the contract, then let us move in that
3 direction.

4 In the case of Prison Health Services, it
5 was the same situation. To disrupt the health
6 network and the equipment setups in all of the
7 prisons throughout the Commonwealth would be a cost
8 to the taxpayers. So the way we looked at it was,
9 does it make sense to negotiate a better contract
10 with Prison Health Services, save those transition
11 costs, and get a better price, which in the case of
12 Prison Health Services we will save \$55 million.

13 And keep in mind, with Unisys, the contract
14 would not have ended for another 2 years, so what we
15 did was, we had two choices: If we were going to
16 rebid this, we would have to pay more money than we
17 have to for 2 years under the contract, or we can
18 negotiate a contract extension that would get us an
19 immediate \$50 million of savings over those first 2
20 years. So when we looked at that business model, the
21 "let's stick with Unisys and negotiate that contract"
22 model won.

23 In some situations, you go back and you say,
24 no, we are willing to incur the transaction costs,
25 the transition costs to a new vendor, and we are

1 going to go out and ask the marketplace for some
2 pricing. But we are certain that the savings and the
3 pricing that we are going to get from Unisys is well
4 within what we would have received by going out into
5 the marketplace.

6 We are not out here just to give this to a
7 company because it makes sense to stick with a
8 company; we want to make sure it makes the most
9 economic sense.

10 REPRESENTATIVE TRUE: Thank you for your
11 explanation. I appreciate it.

12 Thank you, Mr. Chairman.

13 CHAIRMAN EVANS: Representative Greg Vitali.

14 REPRESENTATIVE VITALI: Thank you, Mr.
15 Chairman, and thank you, Mr. Secretary, for coming
16 here today.

17 I wanted to go back to your initial topic,
18 which was the ESCOs, the energy service companies,
19 and first I would like to congratulate you and the
20 Governor for employing these energy service
21 companies. It is a progressive concept which I,
22 frankly, was not aware of until the current
23 legislation on conservation started to move through
24 the Legislature.

25 As you mentioned, these are companies that

1 go into government entities, schools, businesses, and
2 look for ways to save money by installing energy
3 efficient needs.

4 As chance would have it, I took a tour of
5 one of your contracts, the Plymouth Meeting armory on
6 Thursday, and an energy service company, Ameresco,
7 led that tour and showed me some of the energy
8 savings they did in your armories throughout the
9 State.

10 I bring this up because they frankly went on
11 and on, and there was a little bit of criticism of
12 DGS with regard to the negotiation of that contract.
13 The sense was that they were being undercut as far as
14 their ability to do an effective job. And I may be
15 getting my facts muddled, but they talked, I believe,
16 about a facility in Coraopolis where they made the
17 point that as we speak now, they were contracted to
18 do some work on that project, but the windows are
19 still, you know, 6 inches open because that wasn't
20 part of the deal. So on a cold day, they weren't
21 acting in the most energy efficient fashion because
22 of, I think probably from their perception, too hard
23 a negotiating with regard to the contract.

24 So that leads me to sort of two questions:
25 A, maybe hearing DGS's side of the story as far as

1 contract negotiations; and B, if the fault lies with
2 the Legislature in not providing you enough moneys to
3 do this correctly, to employ the ESCOs correctly,
4 maybe some suggestions for us as to how to fund this
5 very progressive concept.

6 SECRETARY CREEDON: Sure. Let me begin with
7 your second question first, and then I'll come back
8 to the negotiating too hard, which I never really
9 mind being criticized for.

10 But we don't need money from the Legislature
11 to do ESCO projects. That is actually the key to
12 doing ESCOs, that we are able to do these. We pay
13 the contractor through the savings we receive through
14 the utility reductions. So we don't have to hit the
15 capital budget and we don't have to hit our operating
16 budget for those savings. So it is not that we need
17 a little bit extra to do a little bit more.

18 Getting back to the two armories, quite
19 frankly, I would have to do a little bit more
20 research, I think, on those two negotiations. We did
21 delegate a number of projects to the Department of
22 Military and Veterans Affairs to have them get
23 started to do them. I'm not quite sure why they
24 wouldn't have included a maximum amount of projects.

25 The way the process works is that the

1 companies bid on a scope of services and show the
2 level of savings that they anticipate that they can
3 achieve. So when we do the analysis, naturally our
4 first choice is to go for the maximum amount of
5 savings, but they have to be realistic projects that
6 are truly going to work and that can be guaranteed by
7 the company.

8 As to why DMVA would not have chosen to do
9 windows or to be more aggressive, I'm not really
10 sure, because as long as the company was willing to
11 guarantee the energy savings as a result of those
12 projects, you know, if it was a DGS negotiation on
13 that contract, we certainly would have done it to
14 maximize that scope.

15 But if you can let me go back and talk to
16 DMVA, talk to our energy officers, see if they are
17 familiar with those contract negotiations, I will see
18 what I can find for you.

19 REPRESENTATIVE VITALI: It would be very
20 much appreciated.

21 SECRETARY CREEDON: Sure.

22 REPRESENTATIVE VITALI: Because it was a DGS
23 negotiation according to the representative,
24 Ameresco.

25 If you could get at the Coraopolis project

1 and the window issue, I would be curious, or maybe
2 get word through the Appropriations chair on it. It
3 would be interesting to get your perspective on this,
4 having had the other side's perspective.

5 SECRETARY CREEDON: Okay.

6 REPRESENTATIVE VITALI: Thank you.

7 SECRETARY CREEDON: Let me look into that a
8 little bit for you.

9 REPRESENTATIVE VITALI: Thank you.

10 CHAIRMAN EVANS: I would also like to
11 announce that this is a joint hearing held with the
12 State Government Committee, the chairperson,
13 Representative Babette Josephs, who is here, and I
14 think--- Is Matt Baker here? He is the chairperson.

15 What I would like to do, she has a question,
16 Representative Babette Josephs, the chairperson.

17 REPRESENTATIVE JOSEPHS: Thank you very
18 much, Mr. Chairman, and thank you for making it a
19 joint hearing.

20 And welcome, Mr. Secretary. It is always a
21 pleasure to work with you, talk to you.

22 As you know, I have been very interested in
23 terms of contractors. The businesses we contract
24 with should look like the people of the State, which
25 is to say we should be contracting with businesses

1 that are owned by women, owned by minorities.

2 I know that we have made some progress in
3 that area. I have been involved in some conferences
4 with small business development centers that you were
5 very gracious to come and help us with, and I wonder
6 if you would talk to us a little bit about progress
7 in that area and what you see for the future.

8 SECRETARY CREEDON: Sure.

9 We made dramatic progress in the area of
10 minority- and women-owned business participation.

11 We had originally thought we started about 2
12 percent. We actually started at about a 1-percent
13 participation rate. We have taken that now up to
14 that we are sustaining an over 10-percent
15 participation rate. We reached a high of about
16 12-percent participation, I believe in one of the
17 quarters in 2006.

18 About 40 percent of that spend is, almost
19 every quarter consistently, about MBE companies, and
20 about 60 percent is WBE companies. Over the last
21 year, we have increased our requirements from a
22 10-percent score to a 20-percent score for your level
23 of participation, and we have also expanded now to
24 request participation in our real estate
25 opportunities as well as within the ESCOs, which we

1 were just talking about.

2 And the ESCOs, with being construction
3 projects, give considerable opportunity to minority-
4 and women-owned businesses. As a matter of fact, the
5 windows that are being put in in the four buildings
6 behind the Capitol and also in the Labor and Industry
7 and Health and Welfare Building are all being managed
8 by women-owned companies. They are doing a great
9 job. The papers don't blow off my desk anymore, so
10 if nothing else, I appreciate that.

11 So I think we have made tremendous progress.
12 There is a lot more we can do. We have to find ways
13 to sustain these levels of participation.

14 One of the things that some members of the
15 caucuses have been talking to me about is, is there
16 legislation perhaps necessary over the next several
17 years to put some of this, what has been DGS policy,
18 to place this in statute so that it becomes
19 institutionalized and it can't be something that gets
20 changed in the future and really becomes part of just
21 the way we do business here in the Commonwealth.

22 REPRESENTATIVE JOSEPHS: I would be very
23 interested in looking at language for legislation.

24 SECRETARY CREEDON: If not this year, I
25 think next year we will probably have those

1 conversations.

2 REPRESENTATIVE JOSEPHS: Thank you, Mr.
3 Secretary.

4 Thank you, Mr. Chairman.

5 CHAIRMAN EVANS: Representative Fred
6 McIlhattan, please.

7 REPRESENTATIVE McILHATTAN: I have no
8 questions, Mr. Chairman. Mine has been answered.
9 Thank you.

10 CHAIRMAN EVANS: Representative Scott Petri.

11 REPRESENTATIVE PETRI: Thank you, Mr.
12 Chairman.

13 Mr. Secretary, I know that you talked a
14 great deal already about the utility savings, and I
15 certainly compliment you. One thing I am trying to
16 understand, though, you are looking in your budget
17 for about a 7.1-percent increase, or an almost
18 \$1.4 million for utilities. How do you explain that
19 in light of all the significant savings?

20 SECRETARY CREEDON: The rates have gone up.

21 REPRESENTATIVE PETRI: And how much have the
22 rates gone up? So what you are saying is, the rates
23 have gone up enough to eat away all of those savings
24 by about \$1.4 million?

25 SECRETARY CREEDON: Not all of them, and

1 keep in mind that the impact of the ESCO projects in
2 particularly the four buildings -- the North Office
3 Building, the Irvis Building, the Forum Building, and
4 the Finance Building -- they really will not kick in
5 until well into this year. So we have to anticipate
6 that those buildings are not going to be as energy
7 efficient as we would like them to be, as well as the
8 East Wing improvements. So we have to budget what we
9 think realistically is going to be our energy costs.

10 In addition, the Judicial Center, which is
11 being constructed just behind the Capitol, starts
12 full operation sometime in the summer of 2009. So we
13 need to start anticipating some rate increases for
14 that as well.

15 REPRESENTATIVE PETRI: Okay.

16 Another area I would like to explore with
17 you is with regard to paragraph 508 of the History
18 Code. As you are probably aware, there are some
19 issues that have popped up as a result of the
20 convention center and how it would be rehabilitated.

21 But just generally and on a much broader
22 focus, paragraph 508 requires a number of things to
23 preserve our histories and our facades:
24 consultation, seeking advice, initiating measures and
25 procedures, and then instituting procedures. And

1 subparagraph (5) of 508 specifically requires that
2 those procedures and policies that are described in
3 paragraphs (3) and (4), which are the initiation of
4 the measures, and the description of the procedure to
5 be used in rehabilitating a property or changing a
6 property have to be submitted to PHMC for review and
7 comment.

8 Number one, are you aware, are most of the
9 agencies in the State complying with this provision;
10 and number two, has DGS itself submitted its
11 procedures and policies to PHMC for its review? And
12 the final question of that three-part question is, if
13 we are not complying, how can we expect private
14 people to comply when the general public and public
15 institutions aren't?

16 SECRETARY CREEDON: I will begin with your
17 first question, talking in general about compliance.

18 I believe that the agencies under the
19 Governor's jurisdiction are complying. DGS is
20 complying. The State System is complying.

21 I have to sign off on all of the demolition
22 approval requests from everything from an old
23 residence hall down to some bathroom facilities in
24 State parks, and I can tell you that each and every
25 one of those has a letter attached from PHMC asking

1 for their review before there is demolition that
2 occurs.

3 Let me talk specifically about the PLICO
4 building for the convention center in the city of
5 Philadelphia, because I think that is a little bit of
6 a much different situation and perhaps the heart of
7 your question.

8 The facility, DGS did consult with PHMC on
9 the demolition of those buildings. PHMC had a
10 different view in a consultant basis to us on the
11 condition of those buildings and felt that they
12 should be preserved.

13 An agreement had been reached between the
14 Convention Center Authority and PHMC to save the
15 facades of those buildings. That agreement would
16 never have been signed by DGS. The Convention Center
17 Authority signed it before they owned the buildings,
18 before they had done any assessment on the condition
19 of the buildings, and as a matter of fact, even
20 before we had even reached an agreement that we were
21 going to move ahead with the convention center
22 expansion.

23 DGS owns the site that the convention center
24 expansion will occur. We own the buildings that were
25 in question, and our engineering analysis and the

1 analysis that I looked at told me we were dealing
2 with a very unsafe situation.

3 We had already put protective measures up on
4 the Broad Street sidewalk to protect pedestrians, and
5 as we looked at the cost estimates, while we were not
6 a party to this agreement, if we were to abide by the
7 agreement, it would have cost the taxpayers another
8 \$15 million to save two facades. Between the safety
9 issues that we saw and the cost to the taxpayers,
10 from a DGS perspective, we did not feel we could go
11 forward and take PHMC's advice.

12 There are some times where I have not taken
13 PHMC's advice. The window change-outs in the four
14 buildings behind the Capitol here as well as Labor
15 and Industry and Health and Welfare, PHMC wanted us
16 to use a higher-cost alternative. I elected not to
17 take PHMC's advice, and I think if you go and take a
18 look at the windows, you can barely tell a
19 difference, and we saved almost \$12 million.

20 And on the PLICO situation, we felt we had a
21 safety issue. When we started demolishing it, we
22 found out we did indeed have a safety issue.
23 Seventy-five percent of the clip joints that hold the
24 facade in place on the one building had either failed
25 or were deteriorating, and when I looked at a cost of

1 \$15 million to save it plus the impact that would
2 have on additional delays on PCCA, we felt that the
3 buildings needed to be demolished.

4 REPRESENTATIVE PETRI: Thank you, Mr.
5 Chairman.

6 CHAIRMAN EVANS: Representative Jake
7 Wheatley.

8 REPRESENTATIVE WHEATLEY: Thank you, Mr.
9 Chairman.

10 Good morning, Mr. Secretary.

11 SECRETARY CREEDON: Good morning.

12 REPRESENTATIVE WHEATLEY: I wanted to go
13 back for a minute, and I should say that I really
14 want to applaud the Administration and you and your
15 leadership team and Peter Speaks around the efforts
16 to really get your hands around this issue of
17 minority- and women-owned businesses and how we make
18 this environment a fair ground for all to participate
19 in.

20 In saying that, I want to go back to the
21 numbers that you cited, the 10 percent that you
22 reached, and how you capture those numbers, how you
23 monitor those numbers. I know that we have talked in
24 the past about the technology that is required to
25 help you do that in a more efficient and effective

1 way. Can you talk to me about how you currently
2 capture those numbers and how we can better capture
3 these numbers and be able to monitor exactly what we
4 are doing and be able to tell the story, positively
5 or negatively, on what we are doing in this
6 Commonwealth.

7 SECRETARY CREEDON: Sure.

8 We currently capture the numbers by, when a
9 contract is awarded, our first benchmark is by noting
10 the level of participation that that contractor has
11 agreed to place on the project. So that is our first
12 step.

13 We then, through our enforcement group
14 within our minority- and women-owned business office
15 through the bureau, we then monitor throughout the
16 contract whether those levels of participation are
17 indeed being fulfilled.

18 And then we obviously put a great deal of
19 pressure on the vendor to comply with what they said
20 they were going to do.

21 There have been situations where, by mutual
22 business agreement, minority-owned businesses have
23 actually dropped out, say 2 years into a 3-year
24 contract with a vendor, and what we have done is we
25 have said, obviously the business relationships have

1 changed; you both have agreed that there needs to be
2 a break in your business relationship; however, we
3 expect that the vendor will be replaced with another
4 minority or women-owned business vendor.

5 You referenced the challenge we have
6 sometimes in technology. We have been looking for
7 about the last year at whether we can afford to make
8 an investment into a dedicated software system within
9 DGS that would allow us to do this in a, much like
10 some other States have, through a dedicated software
11 system.

12 It is about a \$450,000 expenditure. We look
13 at our IT expenditures very frugally. We allocate a
14 certain amount of resources each year across each of
15 the deputates. It is an expense that we have not
16 really been able to afford yet. We are hoping we can
17 within the next fiscal year as we work through our
18 priorities within IT upgrades.

19 One of the things we have been able to do,
20 though, is identify at the Office of Administration
21 with their IT resources that we use to run our IT
22 operation, our looking at whether we can build this
23 type of system in-house using some type of database
24 platform that is already in place that will be able
25 to allow us to catalog this and then also compare the

1 actual spend against the SAP system, which captures
2 the invoices and then can tell us right away whether
3 the spend indeed did occur.

4 So we have the data. I feel very confident
5 about the data. I think it tells the picture of what
6 is occurring within the Commonwealth. Could we be
7 better with some dedicated IT resources? We
8 certainly could, but it is a case of balancing our
9 spending available within the department against
10 where those resources are.

11 We have a very tight discretionary operating
12 budget that we operate from, and the deputies compete
13 very vigorously for those IT dollars.

14 REPRESENTATIVE WHEATLEY: And I can
15 appreciate that, and seeing that this is the
16 Appropriations Committee meeting and this is our
17 annual conversation around what are appropriate spins
18 for each department, it seems to me, in my opinion --
19 this is critical for me, and it has been since I came
20 in -- it seems to me somehow a missed opportunity for
21 your department to request these types of upgrades
22 and the investment in these upgrades so that we make
23 sure the opportunities that we are trying to provide
24 are actually being provided in a very efficient way,
25 that you have not even asked for savings to be a

1 missed opportunity in that capacity.

2 SECRETARY CREEDON: Well, I will note, Anne
3 Rung is our Deputy for Administration. She said she
4 thinks we can buy it this year. It has been a case
5 of when we have the money available and then
6 prioritizing across the entire deputate within our
7 existing budget.

8 We have made a commitment to the Budget
9 Office and to the Governor to keep our spending as
10 flat as absolutely possible, and I would not come to
11 this committee and ask for additional funding if I
12 had not already asked for that additional funding to
13 the Governor and to the Budget Office.

14 So I think we have just been in a time of
15 waiting until we had, much like we all do our own
16 budget, maybe we had to save a little bit and build
17 up the funds to do it. That is really the situation
18 we have here.

19 REPRESENTATIVE WHEATLEY: Sure.

20 Now, one final train of questioning, and I
21 know we have to push on.

22 I have been told, and maybe you can help me
23 clarify this as it relates to the State process for
24 how it counts MBE/WBE in a project, it asks for
25 solicited participation and not necessarily actual

1 participation. Is that how you count--- Help me
2 understand how you count the participation
3 percentages. Is it that it is actual work being
4 performed with MBE/WBEs with our partners -- I'm
5 talking about on a statewide contract and so on and
6 so forth -- or is it the solicited action for MBE/WBE
7 participation?

8 SECRETARY CREEDON: Let me kind of walk
9 through the process again.

10 When the proposals first come in, we have, I
11 guess, a solicitation basis. So if it is this month
12 that contract is awarded, that solicitation basis
13 would then go into our database and be part of our
14 numbers that have been reported this month. But as
15 we monitor the actual use within the contract, that
16 percentage which is being attributed from that
17 contract going into our totals will then vary on a
18 quarterly basis to reflect the actual participation.

19 REPRESENTATIVE WHEATLEY: So I'm clear on,
20 when you say the 10-percent number that you
21 consistently hit each month, is that 10-percent
22 solicited or 10-percent actual business?

23 SECRETARY CREEDON: It's a combination of
24 both, depending on which month we are in. If there
25 is a month where a contract has just been solicited

1 and awarded and we are not up and running yet, it
2 will include some solicitation; if it is a contract
3 that has been in place for 2 years, it will include
4 the actual participation.

5 REPRESENTATIVE WHEATLEY: Okay. Thank you,
6 Mr. Chairman.

7 Thank you, Mr. Secretary.

8 CHAIRMAN EVANS: Representative Brian Ellis.

9 REPRESENTATIVE ELLIS: Thank you, Mr.
10 Chairman.

11 Mr. Secretary, thank you for coming today.
12 Just a couple of questions, real quick.

13 The energy efficiency standards that you
14 have applied to some of the buildings -- North
15 Office, Irvis, Capitol, Finance, Forum, and so on --
16 how did we pay for those?

17 SECRETARY CREEDON: We paid for those by the
18 ESCO project. The ESCO contractor, what we do is we
19 pay that contractor back for the costs of those
20 improvements.

21 REPRESENTATIVE ELLIS: Okay. So did we
22 borrow money to pay for these?

23 SECRETARY CREEDON: No, we did not borrow.
24 Under the Procurement Code, it is not considered a
25 borrowing when you use operating dollars or avoided

1 operating dollars to make the payment back to a third
2 party.

3 REPRESENTATIVE ELLIS: Okay.

4 And then my second question, with the sale
5 of the Philadelphia Office Building, you are moving
6 those folks into a leased building. Have you
7 considered across the board looking at public-private
8 partnerships for some of the buildings that you guys
9 operate to save costs?

10 SECRETARY CREEDON: Yes. As a matter of
11 fact, the Pittsburgh State Office Building, the RFP
12 for the sale of the Pittsburgh Building will be
13 released this month, probably very shortly, by the
14 RFPs for the leased space to replace the space that
15 is in that building.

16 We have not looked at it in Scranton or
17 Reading. They are very small buildings. As a matter
18 of fact, I think the Scranton building we just bought
19 back. It had been a public-private partnership over
20 a long-term lease, and we just made the final
21 payments on it up in Scranton.

22 We are looking at some facilities here in
23 Harrisburg, the former Harrisburg State Hospital
24 property, which is now called the DGS Annex, which
25 was added to our inventory responsibilities I think

1 2 budget years ago now. We are looking at whether
2 there is an opportunity there to do some type of
3 public-private partnership where we sell part or all
4 of the facility and perhaps lease it back.

5 It is interesting to me, when I was told we
6 were going to take on the operation of a closed State
7 hospital, I kind of expected a closed State hospital.
8 It's a pretty active facility up there with a lot of
9 Commonwealth facilities, Gaudenzia drug and alcohol
10 treatment, Catholic Charities. The Department of Ag
11 runs a dairy operation on the site.

12 But we have, a couple of folks have
13 approached us and said that they might be interested
14 in some type where they take on the development, but
15 we continue to lease part of it. So we are always
16 looking at all those types of opportunities, and if
17 they make economic sense, we will pursue them.

18 REPRESENTATIVE ELLIS: Do you have any kind
19 of initial numbers on the cost savings in the
20 Pittsburgh location?

21 SECRETARY CREEDON: No, I don't. The
22 difficulty in Pittsburgh is, let me just walk you
23 through the economics as we see them right now.

24 The building will not--- Well, I shouldn't
25 say it is not. I would encourage people to bid

1 \$25 million for the building in Pittsburgh, but I
2 think I'm being a little bit unrealistic. It is not
3 going to command the same market price that Broad and
4 Spring Garden did in the city of Philadelphia. The
5 economics are different.

6 We do know, however, that the building does
7 require about \$50 to \$60 million of capital
8 investments, so we are going to be able to avoid that
9 investment, and we certainly hope that our lease
10 costs in the city because of the size and, you know,
11 the quality of the lessor, where somebody pays our
12 leases -- we are going to be there for awhile once we
13 move into your buildings -- that we are going to be
14 able to get some below market rates.

15 So I'm hoping, while our savings on the
16 20-year net present value basis in Philadelphia is
17 about \$30 million, I'm hoping we will probably see
18 about 15, maybe 17 in Pittsburgh, but it's really
19 just a rough estimate at this point. Until we get
20 out in the marketplace, we are not going to know what
21 those numbers are.

22 REPRESENTATIVE ELLIS: Thank you very much,
23 Mr. Chairman.

24 CHAIRMAN EVANS: Representative Dally.

25 REPRESENTATIVE DALLY: Thank you, Mr.

1 Chairman.

2 Good morning, Mr. Secretary.

3 SECRETARY CREEDON: Good morning.

4 REPRESENTATIVE DALLY: Earlier in this
5 hearing you displayed a chart that provided some
6 information on sole source contracts, and I was
7 wondering if you had the dollar amount of the
8 difference. And I know those are numbers of
9 contracts; I'm just curious as to difference in
10 dollar amounts as far as sole source.

11 SECRETARY CREEDON: I don't believe I have
12 that with me, but it is certainly something that we
13 can put together for you.

14 REPRESENTATIVE DALLY: Okay. I would
15 appreciate that.

16 SECRETARY CREEDON: Sure.

17 REPRESENTATIVE DALLY: And I think you
18 addressed the question to Representative Wheatley
19 before, or he addressed the question to you and you
20 addressed the answer, about minority- and women-owned
21 contracts.

22 We had a hearing, and it doesn't have
23 anything to do with DGS, but we had a hearing last
24 week on the Gaming Commission, and they had hired a
25 minority contractor to give them an overview of

1 gaming regulations and how to start in that business.

2 They intend to delegate a lot of that
3 authority to a subcontractor that was not a
4 minority-owned business in that respect with gaming.
5 They made recommendations to the Gaming Commission,
6 or to the prime contractor, and the Gaming Commission
7 actually just disregarded all those recommendations.

8 But that is beside the point. I'm just
9 wondering, how do you monitor when a contract is
10 awarded to a minority-owned business that it does
11 indeed remain that way? I mean, it seems to me that
12 there is mischief that could occur there in terms of,
13 you know, subcontractors coming in and the like.

14 In this instance, with the Gaming
15 Commission, is that the prime minority subcontractor
16 had no experience in the job that was entailed with
17 the contract, so obviously they had to look elsewhere
18 for expertise.

19 SECRETARY CREEDON: Right.

20 We have a certification group within our
21 MBE/WBE office as well as an enforcement group, and
22 their job is to ensure that what was said in the
23 proposal occurs, to handle any disputes that are
24 occurring between the prime, whether the prime is a
25 minority vendor or the sub is a minority vendor.

1 Quite frankly, our problem is not minority
2 MBE firms subbing to non-minority subcontractors.
3 Our problem is non-MBE prime contractors changing
4 their relationships with the MBE and WBE
5 subcontractors. I wish we had more MBE and WBE
6 primes, but because of the basis of our construction
7 industry and a lot of our procurement, we are not
8 seeing as much as we would like to.

9 But we do have an enforcement group, and
10 that is their job, to monitor that each and every
11 day, to take complaints, to investigate complaints,
12 to monitor payments, to make sure people are being
13 paid timely, particularly if they are a
14 subcontractor. So they are the group that does that.

15 REPRESENTATIVE DALLY: Okay. Thank you.

16 Thank you, Mr. Chairman.

17 CHAIRMAN EVANS: Representative Reichley.

18 REPRESENTATIVE REICHLEY: Thank you, Mr.
19 Chairman.

20 Sorry; we're a little cramped for space up
21 here. There we go.

22 I will try to be as concise as possible. I
23 know we are pushing up against the next group of
24 testifiers.

25 Mr. Secretary, your responses to

1 Representative True's answers, the longer you spoke,
2 the more intriguing it became to me, so I just want
3 to get back to that for a second.

4 And I think in following up on
5 Representative Dally's point, you mentioned about the
6 larger number of contracts you showed with your bar
7 graph, but you didn't come in today with any dollar
8 estimation as to what the value of the contracts is
9 that you released as opposed to what was in the
10 Administration prior to that. Is that correct?

11 SECRETARY CREEDON: Correct. But keep in
12 mind, the Unisys contract was also sole sourced by
13 the previous Administration.

14 REPRESENTATIVE REICHLEY: Okay.

15 SECRETARY CREEDON: I think you are going to
16 see, we will see when we submit the numbers, but I
17 think you are going to see some pretty similar
18 numbers.

19 REPRESENTATIVE REICHLEY: Well, is that the
20 first time that contract had been let, though, for
21 the Data PowerHouse situation?

22 SECRETARY CREEDON: 1999, I believe, was the
23 first time.

24 REPRESENTATIVE REICHLEY: Right, and then---

25 SECRETARY CREEDON: And it was extended in

1 2002.

2 REPRESENTATIVE REICHLEY: All right. And
3 you have now extended this again, without any
4 requests for competitive bids. Is that correct?

5 SECRETARY CREEDON: That is correct.

6 REPRESENTATIVE REICHLEY: I guess I'm
7 curious, because this does not seem to be the only
8 situation where this has happened within the
9 Administration. I wonder if you can comment, because
10 there was an article posted just last night, I guess,
11 with the Patriot-News that discussed this very
12 contract, that it is worth \$240 million over 5 years.

13 It also references the one for medical
14 services for inmates, which I think you mentioned;
15 also another one for telecommunications services.
16 Are you able to tell us who the big winners of those
17 contracts are and what the value of those contracts
18 are?

19 SECRETARY CREEDON: Let us see if I have the
20 total value of the Prison Health Services with me. I
21 believe I do.

22 The value of the telecommunications services
23 was \$50 million. That was awarded, I believe, about
24 3 or 4 years ago.

25 The Prison Health Services contract--- I'll

1 have to get you that, Representative Dally -- or
2 Reichley. I'm sorry.

3 REPRESENTATIVE REICHLEY: I'm Reichley.
4 We're often confused; I know.

5 SECRETARY CREEDON: You're all from the
6 Lehigh Valley; that's why I'm all confused.

7 REPRESENTATIVE REICHLEY: That's right. I'm
8 the one with the mustache, if it is easier to keep
9 track.

10 SECRETARY CREEDON: You're the one with the
11 mustache. Sorry about that.

12 We will get you the value of the Prison
13 Health Services.

14 REPRESENTATIVE REICHLEY: Sure. And the
15 names of the winners of those contacts.

16 SECRETARY CREEDON: Prison Health Services.

17 REPRESENTATIVE REICHLEY: Oh, Prison Health
18 Services. And the telecommunications one was?

19 SECRETARY CREEDON: Telco.

20 REPRESENTATIVE REICHLEY: Telco; okay.

21 I guess the question I have is, in a
22 contract with such a large amount as that, I was
23 curious as to how that comports with the requirements
24 of the Procurement Code.

25 The article in the Patriot-News says there

1 seems to be three rather specific situations in which
2 you can avoid going through an RFP situation, those
3 being when only a single supplier is capable of
4 providing the service, when Federal or State law
5 exempts the contract from competitive process, or
6 when the contract is in the best interests of the
7 State, and I'm wondering if you are able to
8 articulate for us today why the Unisys contract in
9 particular met any of those requirements?

10 SECRETARY CREEDON: Well, it met the best
11 interests of the State requirements, and so did the
12 Prison Health Services contract.

13 And I believe, as I said earlier, our
14 analysis was if we were able to negotiate a \$240
15 million reduction in the cost and a \$50 million
16 reduction in the cost of the next 2 years -- and we
17 would have paid an additional \$50 million if we went
18 out to bid on this project -- and if we took in the
19 impact of the transition out. And did we believe
20 that by going to the marketplace we were going to get
21 a better deal? We did not believe that we would, and
22 if we could capture \$50 million of reductions in an
23 existing contract, we were going to go and try to
24 capture those reductions.

25 So that was the determination made on the

1 best interests of the Commonwealth.

2 REPRESENTATIVE REICHLEY: Did you even
3 solicit inquiries or make inquiries to other firms
4 that could offer the same services as Unisys as to
5 what they were going to potentially offer the State
6 in terms of savings?

7 SECRETARY CREEDON: If you look at the scope
8 of the Unisys contract, it is not something that you
9 could just call up and say, how much do you think you
10 would charge us? Quite frankly, I don't think any of
11 those competitors would have given us an honest
12 answer. And quite frankly, they probably would have
13 told us it was all going to be extremely low, because
14 they want to have the competition, and then when the
15 competition would occur, we would probably find
16 ourselves with some numbers that maybe we wouldn't
17 like.

18 I spent about 6 years of my career in the
19 water and wastewater industry, where we bid on
20 billion-dollar contracts to run water and wastewater
21 systems, and I can tell you, when I was competing
22 against an incumbent, my price was always going to be
23 very, very low, and when I was the incumbent, what I
24 wanted to do was be able to give reductions out 3, 4,
25 5 years to avoid that competition, because the cost

1 to my client of making that change was going to be
2 traumatic and was going to be huge as far as changing
3 potentially technology, changing staff, changing
4 personnel, doing that transition.

5 So I think, you know, OA, who manages
6 procurement and worked very closely with DGS and the
7 procurement staff on this, I'm sure did market tests
8 with the consultants that they employed to say, are
9 we where we think the market will be? where some of
10 these other competitors will be? Whether they talked
11 to other vendors or not, I don't have that type of
12 specific information.

13 REPRESENTATIVE REICHLEY: Although it may
14 not be required by the Procurement Code, does your
15 office make any inquiry or evaluation into whether
16 principles of the company that you are anticipating
17 extending a no-bid contract to have made campaign
18 contributions to the Administration?

19 SECRETARY CREEDON: No, we do not. That is
20 not a matter of interest to us.

21 REPRESENTATIVE REICHLEY: Well, I think it
22 is a matter of interest to the general public,
23 because as you know, I'm sure, back on February 25,
24 there was an Associated Press article that ran a
25 story that Deloitte Consulting had received more than

1 \$400 million in State contracts over the last 5 years
2 and detailed the fact that there had been significant
3 campaign contributions made by Deloitte employees.
4 And in fact in sort of, I guess, a turnstile fashion,
5 there were some former Deloitte employees in the
6 Administration or related to folks in the
7 Administration, and I think if you proceed with these
8 no-bid contracts, it raises that question.

9 SECRETARY CREEDON: Deloitte was not a
10 no-bid contract. Ninety-nine percent of the business
11 given to Deloitte was competitively bid. It is not
12 the same as Unisys or Prison Health Services at all.

13 REPRESENTATIVE REICHLEY: The bulk of the
14 money, \$360 million, went for work at one department,
15 the Department of Public Welfare. The contracts were
16 obtained through competitive bids, but this is
17 through a company that did competitive bids and they
18 still are receiving a bulk of money---

19 SECRETARY CREEDON: And I---

20 REPRESENTATIVE REICHLEY: Well, hear me, Mr.
21 Secretary. You know, I had asked you last year if
22 there was a company that felt it had been boxed out
23 because of connections to Deloitte by the
24 Administration, and when you then proceed to make a
25 no-bid contract of such a large amount to a company

1 like Unisys, it raises other speculations.

2 We have seen this, we are going to hear
3 about it later this afternoon from the Department of
4 Education, where two computer vendors were identified
5 as the sole source -- I know that is outside of your
6 department; that is with Education -- for these
7 laptop computers, but again, it raises questions as
8 to the integrity of the process, and certainly this
9 performance has been a buzzword around this Capitol
10 in the last 2 years. It would seem to behoove the
11 Administration to take that to heart as well.

12 SECRETARY CREEDON: I think we do, and I
13 think you are relying on newspaper articles that
14 relied on anonymous sources and were intended to give
15 a message that was incorrect.

16 I submitted an op-ed piece to the
17 Patriot-News on Friday afternoon, which I sincerely
18 hope they publish, which gives the facts about how
19 seriously we take procurement in the Rendell
20 Administration, and these are not being awarded on
21 the basis other than competition or in the best
22 interests of the Commonwealth.

23 And I think this afternoon when you talk
24 about the computers, DGS was very much involved. As
25 a matter of fact, I was involved in some of the

1 negotiations personally. That was a very fierce
2 competition. Yes, there are two providers who won a
3 competition.

4 REPRESENTATIVE REICHLEY: Getting into
5 the--- Now you have raised the interests of the
6 Commonwealth.

7 Since you are the sole, not sole, but the
8 major proprietor, let's say, of Commonwealth land,
9 what is your position on the city of Philadelphia
10 issuing the permission to the one slots venue for
11 riparian land in the Delaware River in Philadelphia
12 that is owned theoretically by the Commonwealth?

13 SECRETARY CREEDON: I have testified before
14 the State Government Committee on this issue. Our
15 position is that the courts will determine whether
16 the city had the right to do that.

17 We were certainly prepared to deal with the
18 issue as a riparian rights bill, as we would, and a
19 number of other riparian rights bills which have been
20 adopted recently by the General Assembly, and I guess
21 the Supreme Court will give us a ruling on whether
22 the city had the right to grant that license for the
23 rights or not.

24 Interestingly, the Mayor has withdrawn those
25 rights, so that made it an even more confusing

1 situation.

2 REPRESENTATIVE REICHLLEY: I understand that
3 Mayor Nutter has done that, because I guess I'm
4 curious as to whether your department had taken a
5 position on what the previous Administration in
6 Philadelphia did with the State-owned riparian land.

7 SECRETARY CREEDON: Our position was, if
8 that was a yet to be determined legal transaction and
9 that it would move the opportunity for the gaming to
10 proceed within the city, we were in favor of it, and
11 we will defer to the Supreme Court to make that
12 decision.

13 REPRESENTATIVE REICHLLEY: So DGS did not
14 enter any objections to the city transferring
15 State-owned land?

16 SECRETARY CREEDON: No, we did not.

17 REPRESENTATIVE REICHLLEY: Okay. Thank you.

18 CHAIRMAN EVANS: Representative Bill Keller.

19 REPRESENTATIVE KELLER: Well, Representative
20 Reichley just---

21 SECRETARY CREEDON: ---bid you right out.

22 REPRESENTATIVE KELLER: That's correct. You
23 knew what was coming.

24 And I understand, you know, that subject of
25 riparian rights, it is subject to a lawsuit, so there

1 are very few comments we can make. But I would be
2 remiss if I didn't take this opportunity to get it on
3 the record that the Legislature continues to
4 reiterate, even with the passage of Acts 4 and 5 of
5 this year, last week, that the only way that riparian
6 lands can be transferred is through an act of the
7 Legislature.

8 As we said, the Supreme Court will determine
9 that finally within the coming months, but it is, and
10 I have said it a number of times, that the
11 Legislature holds that. Only the Legislature can
12 grant riparian rights.

13 Thank you.

14 CHAIRMAN EVANS: Representative Denlinger.

15 REPRESENTATIVE DENLINGER: Thank you, Mr.
16 Chairman.

17 You're getting better with my name every
18 time. Thank you.

19 Mr. Secretary, I just want to kind of go
20 back to something that Representative Reichley was
21 keying on, and it is a fact of history that in State
22 government where States put out a lot of
23 State-sponsored economic development, that in the
24 out-years of Administrations, sooner or later it is
25 friends of the Administration that tend to benefit

1 from the procurement system.

2 I don't ask this question to impugn you; in
3 fact, I respect what you have done very, very highly
4 and appreciate it. But what protections do you put
5 in place within your department to make sure that it
6 is not just "Friends of Ed" that end up getting the
7 key contracts?

8 SECRETARY CREEDON: First of all, I think
9 I'm going to extend an offer that I don't know if I
10 made to this committee but perhaps to the State
11 Government Committee -- I know I made it over in the
12 Senate -- I encourage anyone who wants to understand
13 our procurement process to come and spend a half a
14 day or a day with our procurement team, who aren't at
15 the Deputy Secretary level or even at the bureau
16 level. They are the individuals who put together
17 procurements, evaluate procurements, and make
18 recommendations and ultimately award those
19 procurements and then monitor the results of them.
20 And I think you will find a group of people who have
21 a goal to save money for the taxpayers, to provide
22 good, effective services for the taxpayers, and to
23 make sure agencies get the type of products that they
24 are paying for.

25 Sometimes I think it is easy when the lights

1 go out here to forget about that offer, but I would
2 encourage you this year, if you get a chance, for
3 people to come and to learn how the process truly
4 works.

5 Also, I will talk about the concept of
6 ethics within the department. It is something that I
7 take very seriously and our executive management team
8 takes very seriously.

9 We have once and sometimes twice a year a
10 program that we offer, and actually it is required
11 for division level and above, for all employees to
12 have ethics training from our Chief Counsel's Office,
13 where they walk through case studies of how to handle
14 this situation, what are the rules in this situation.

15 We also have in place for our top management
16 a protection to avoid any type of conflict of
17 interest, where we have to indicate to our Chief
18 Counsel any family member, conflicts that might be in
19 place, I believe going out to brothers and sisters
20 and even to brothers- and sisters-in-law, for where
21 we establish a preset method of recusing ourselves
22 from any type of decisionmaking process that may
23 occur relative to that company. That goes to the
24 deputy level and I believe even into the bureau
25 level.

1 So that is already automatically in place.
2 So if you see something coming across your desk or
3 you see you have a conflict in place, there is a
4 preset set of conditions. For example, if I would
5 see a conflict that would come across my desk, it
6 would immediately be sent over to Deputy Secretary
7 Rung. I would be completely removed from the
8 situation, and Deputy Secretary Rung would manage the
9 decisionmaking process.

10 So we realize we have a lot of trust from
11 the public in procurement and in public works and in
12 real estate and in all the functions that we do. We
13 take it very seriously, and we put the best
14 protections we can.

15 But I do encourage you to learn about how
16 the procurement process works, and I think you will
17 find it is a group of individuals who are, and a lot
18 of times they have been recruited from the private
19 sector and are coming here and, you know, trying to
20 do a very good job for the taxpayers, and they are
21 not out to benefit one group of friends over another.

22 REPRESENTATIVE DENLINGER: Thank you, Mr.
23 Chairman.

24 CHAIRMAN EVANS: Thank you.

25 I would like to thank you, Mr. Secretary,

1 one, for what you and all of your staff does for the
2 people of the Commonwealth of Pennsylvania, and I
3 appreciate your responsiveness to this committee
4 every time you come before this committee. And I
5 thank the State Government Committee.

6 We are going to take no more than a 3-minute
7 break, then we're going to bring the Turnpike
8 Commission before us, and then we will start back up.

9 Thank you very much.

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11 (The hearing concluded at 10:05 a.m.)

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1 I hereby certify that the proceedings and
2 evidence are contained fully and accurately in the
3 notes taken by me on the within proceedings and that
4 this is a correct transcript of the same.

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Debra B. Miller, Reporter

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