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**STATE OF ILLINOIS**

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**OFFICE OF THE AUDITOR GENERAL**

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**PERFORMANCE AUDIT  
OF THE  
STATE'S LEASING DECISION**

**MAY 2018**

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**FRANK J. MAUTINO**

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**AUDITOR GENERAL**

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OFFICE OF THE AUDITOR GENERAL  
FRANK J. MAUTINO

*To the Legislative Audit Commission, the Speaker  
and Minority Leader of the House of Representatives,  
the President and Minority Leader of the Senate, the  
members of the General Assembly, and the  
Governor:*

This is our report of the performance audit of the State's decision to enter into a five-year \$2.4 million lease for property at 2410 South Grand Ave. East.

The audit was conducted pursuant to House Joint Resolution Number 63 which was adopted June 28, 2017. This audit was conducted in accordance with generally accepted government auditing standards and the audit standards promulgated by the Office of the Auditor General at 74 Ill. Adm. Code 420.310.

The audit report is transmitted in conformance with Section 3-14 of the Illinois State Auditing Act.

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FRANK J. MAUTINO  
Auditor General

Springfield, Illinois  
May 2018





# STATE OF ILLINOIS OFFICE OF THE AUDITOR GENERAL

Frank J. Mautino, Auditor General

## REPORT DIGEST

### PERFORMANCE AUDIT

**Release Date:  
May 2018**

Audit performed in  
accordance with  
**House Joint  
Resolution 63**

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The full audit report is available  
on our website:  
[www.auditor.illinois.gov](http://www.auditor.illinois.gov)

### EXECUTIVE SUMMARY

## State's Leasing Decision

On June 28, 2017, the Illinois General Assembly adopted House Joint Resolution Number 63 which directed the Auditor General to conduct a performance audit of the State's decision to enter into a five-year \$2.4 million lease for property at 2410 South Grand Ave. East.

The decision to enter into the lease actually involved two different leases – one for a file storage warehouse and one for an IT (Information Technology) and Telecommunications Support Center. After the winning vendors were selected but prior to the final award, the Department of Central Management Services (CMS) switched the purposes of the leases and the using agencies. However, CMS violated a provision of the Illinois Procurement Code by awarding leases to vendors who were not qualified respondents for the leases awarded. For example, the vendor awarded the warehouse lease was not a qualified respondent under the Procurement Code as it had submitted a response for the IT and Telecommunications Support Center and not the warehouse lease. This was no fault of the vendors as the decision to switch leases was made by CMS. In addition:

- Offers were evaluated and awards selected based on the requirements set forth in the solicitation document. These requirements were then changed.
- CMS and the Chief Procurement Office for General Services have characterized the switch of the leases as substituting using agencies. However, the switch was not a simple substituting of using agencies. Not only were the agencies changed, the purposes of the leases were changed, the structural layouts were changed, the tenant space requirements were changed, and the prices offered were changed.
- Other responders did not get the opportunity to change their bids to meet the new lease requirements violating the principle of fair and equal treatment.
- By not rebidding, CMS may have excluded potential bidders who were not afforded the opportunity to bid on the new space requirements.
- The State Purchasing Officer responsible for reviewing the leases could not provide adequate documentation of review.

Other key findings of the audit include the following:

- The information provided by CMS to the Procurement Policy Board for the Department of Human Services (DHS) warehouse lease was misleading and incomplete which hampered the Board's ability to review the lease. A draft version of the information sent to the Board contained additional language explaining the switching of leases but it was removed in the final version sent to the Board.
- The amount of space requested in the DHS space request was insufficient to meet its file storage needs. DHS also could not provide documentation demonstrating any cost savings resulting from consolidating files.
- CMS did not conduct an analysis of the cost-benefit of purchasing instead of leasing the property at 2410 South Grand Ave. East.
- DHS has not conducted a comprehensive cost-benefit analysis of digitizing records.



**AUDIT SUMMARY AND RESULTS**

Dwight Correctional Center (Dwight) was closed effective March 26, 2013. In October 2013, the Illinois Department of Corrections submitted a request to the Department of Central Management Services (CMS) to surplus the Dwight property. At that time, it was decided to use the prison site for Department of Human Services (DHS) file storage. DHS began moving file cabinets and boxes to Dwight in January 2014.

In September 2015, DHS submitted a space request to CMS for new file storage space in Central Illinois. The conditions at Dwight had deteriorated and DHS also needed additional space to consolidate files from local offices. On October 4, 2016, the DHS warehouse was awarded to Climate Controlled Holdings, LLC for a facility located at 2410 South Grand Ave. East in Springfield, Illinois.

On June 28, 2017, the Illinois General Assembly adopted House Joint Resolution Number 63 which directed the Auditor General to conduct a performance audit of the State’s decision to enter into a five-year \$2.4 million lease for property at 2410 South Grand Ave. East. The audit resolution contained 11 determinations.

**The decision to enter into the lease actually involved two different leases – one for a file storage warehouse and one for an IT and Telecommunications Support Center.**

The decision to enter into the lease actually involved two different leases. The lease at 2410 South Grand Ave. East is for a DHS file storage warehouse. However, this lease originated as an IT (Information Technology) and Telecommunications Support Center for the Department of Innovation and Technology (DoIT). The DHS warehouse originated under a different lease. After the winning vendors were selected but prior to the final award, CMS switched the purposes of the leases and the using agencies.

**After the winning vendors were selected but prior to the final award, CMS switched the purposes of the leases and the using agencies.**

- In September 2015, DHS submitted a space request to CMS for a new **file warehouse** in Central Illinois. The solicitation was issued and four bids were received by the due date of December 15, 2015. On April 20, 2016, an offer was selected from MGM Jefferson Corporation for property at 719 W. Jefferson St. in Springfield, Illinois.
- In September 2015, the CMS Bureau of Communications and Computer Services (BCCS), which is now DoIT, submitted a space request for an **IT and Telecommunications Support Center** to be located in Springfield. The solicitation was issued twice with no bids received. The solicitation was issued a third time with two bids received by the due date of February 24, 2016. On April 20, 2016, an offer was selected from Climate Controlled Holdings, LLC for property at 2410 South Grand Ave. East in Springfield, Illinois.

On July 8, 2016, CMS decided to switch the lease facilities, awarding the DHS file warehouse to Climate Controlled Holdings and awarding the IT and Telecommunications Support Center to MGM Jefferson Corporation. It appeared that the decision to switch the leases was done with the intent of finding the best fit for the agencies as well as protecting both prospective landlords from loss of time, effort, and monies already expended. (pages 15-25)

Digest Exhibit 1 TIMELINE OF EVENTS		
DHS Lease	Date	BCCS Lease
	08-04-15	Department of Agriculture notifies BCCS that BCCS will need to move from the building at the State Fairgrounds
DHS sends CMS a memo regarding the poor conditions at the Dwight facility	08-18-15	
CMS Statewide Facility Manager emails DHS that space usage at Dwight is 41,905 square feet	09-08-15	
DHS submits a space request to CMS for new file storage space in Central Illinois	09-10-15	
	09-14-15	BCCS submits a space request for an IT and Telecommunications Support center that will combine staff located at the State Fairgrounds and two other locations
	10-14-15	CMS issues RFI #6627 seeking 44,000 square feet of office/climate-controlled warehouse space for BCCS with a due date of 11-19-15; no bids are received
CMS issues RFI #6628 seeking 26,000 square feet of climate-controlled warehouse space for DHS with a due date of 12-01-15	11-09-15	
State Purchasing Officer cancels RFI #6628 because one offer received was inadvertently opened early in error	11-30-15	
CMS re-issues RFI #6628 with a due date of 12-15-15; four bids are received	12-01-15	
	12-07-15	CMS re-issues RFI #6627 with a due date of 01-13-16; no bids are received
	01-19-16	CMS re-issues RFI #6627 for a third time with a due date of 02-24-16; two bids are received
CMS and DHS conduct first of four site suitability visits for possible locations of the DHS warehouse	03-18-16	
	03-24-16	Following a site suitability visit, BCCS emails the CMS Leasing Representative a list of concerns with the South Grand Ave. East location
Award notice published announcing selection of an offer from MGM Jefferson Corporation for DHS for 24,210 square feet at the W. Jefferson St. location	04-20-16	Award notice published announcing selection of an offer from Climate Controlled Holdings for BCCS for 44,000 square feet at the South Grand Ave. East location
	05-04-16	Series of emails begins between BCCS and CMS discussing issues with South Grand Ave. East location
	06-13-16	Secretary Designate of DoIT emails CMS that they want to hold off on the move to the South Grand Ave. East location
	06-16-16	CMS Leasing Representative sends a draft lease to Climate Controlled Holdings for review
CMS Leasing Representative sends a draft lease to MGM Jefferson Corporation for review	06-21-16	
<b>07-08-16</b>		
CMS Lease Administrator recommends switching the locations for the leases and utilizing the South Grand Ave. East location for DHS files and the W. Jefferson St. location for BCCS		
 DHS warehouse facility		
 BCCS IT and Telecommunications Support Center		
 Applies to both leases		

Digest Exhibit 1 TIMELINE OF EVENTS		
DHS Lease	Date	BCCS Lease
CMS reassesses the amount of space being used by DHS at Dwight and determines the total is 36,819 square feet	07-13-16	
08-10-16 Deputy Director of the CMS Bureau of Property Management approves switching the locations for the leases		
State Purchasing Officer publishes notice of lease award for lease #6627 awarding the DHS warehouse to Climate Controlled Holdings for 60,158 square feet at the South Grand Ave. East location	10-04-16	
Lease #6627 for the DHS warehouse is a non-agenda item for the meeting of the Procurement Policy Board; no discussion of the lease	10-20-16	
Lease #6627 is signed by Director of CMS	11-03-16	
	12-22-16	State Purchasing Officer publishes notice of lease award for lease #6628 awarding the BCCS IT and Telecommunications Support Center to MGM Jefferson Corporation for 24,210 square feet at the W. Jefferson St. location
	01-19-17	The Procurement Policy Board objects to lease #6628 as it had questions regarding who is paying for the cost of ADA compliance improvements
DHS begins moving files into the new warehouse facility	Early Feb – 17	
	02-24-17	CMS provides additional information to the Procurement Policy Board which then approves lease #6628
	02-27-17	Lease #6628 is signed by the Director of CMS
<div style="display: flex; gap: 10px;"> <div style="width: 20px; height: 10px; background-color: #c6e0b4; border: 1px solid black;"></div> DHS warehouse facility                     <div style="width: 20px; height: 10px; background-color: #fce4d6; border: 1px solid black;"></div> BCCS IT and Telecommunications Support Center                     <div style="width: 20px; height: 10px; background-color: #fff9c4; border: 1px solid black;"></div> Applies to both leases                 </div>		
Source: OAG analysis of lease files and emails.		

**CMS violated a provision of the Illinois Procurement Code by awarding leases to vendors who were not qualified respondents for the leases awarded.**

However, **CMS violated a provision of the Illinois Procurement Code by awarding leases to vendors who were not qualified respondents for the leases awarded.** Climate Controlled Holdings was not a qualified respondent under the Procurement Code as it had not submitted a response for the warehouse lease. Conversely, MGM Jefferson Corporation was awarded the BCCS IT and Telecommunications Support Center but was not a qualified respondent as it had submitted a response for the warehouse lease. **This was no fault of the vendors as the decision to switch leases was made by CMS.**

**Offers were evaluated and awards selected based on the requirements set forth in the Request for Information. These requirements were then changed.**

**The State Purchasing Officer responsible for reviewing the leases could not provide adequate documentation of review.**

The solicitation document, called the Request for Information, for each lease contained language on the selection of the winning vendor. **Offers were evaluated and awards selected based on the requirements set forth in the Request for Information. These requirements were then changed.** When CMS decided to switch the leases, officials did not give other responders the opportunity to change their bids to meet the new lease requirements violating the principle of fair and equal treatment. Also, by not rebidding the DHS warehouse lease or the BCCS IT and Telecommunications Support Center lease, CMS may have excluded potential bidders who were not afforded the opportunity to bid on the new space requirements.

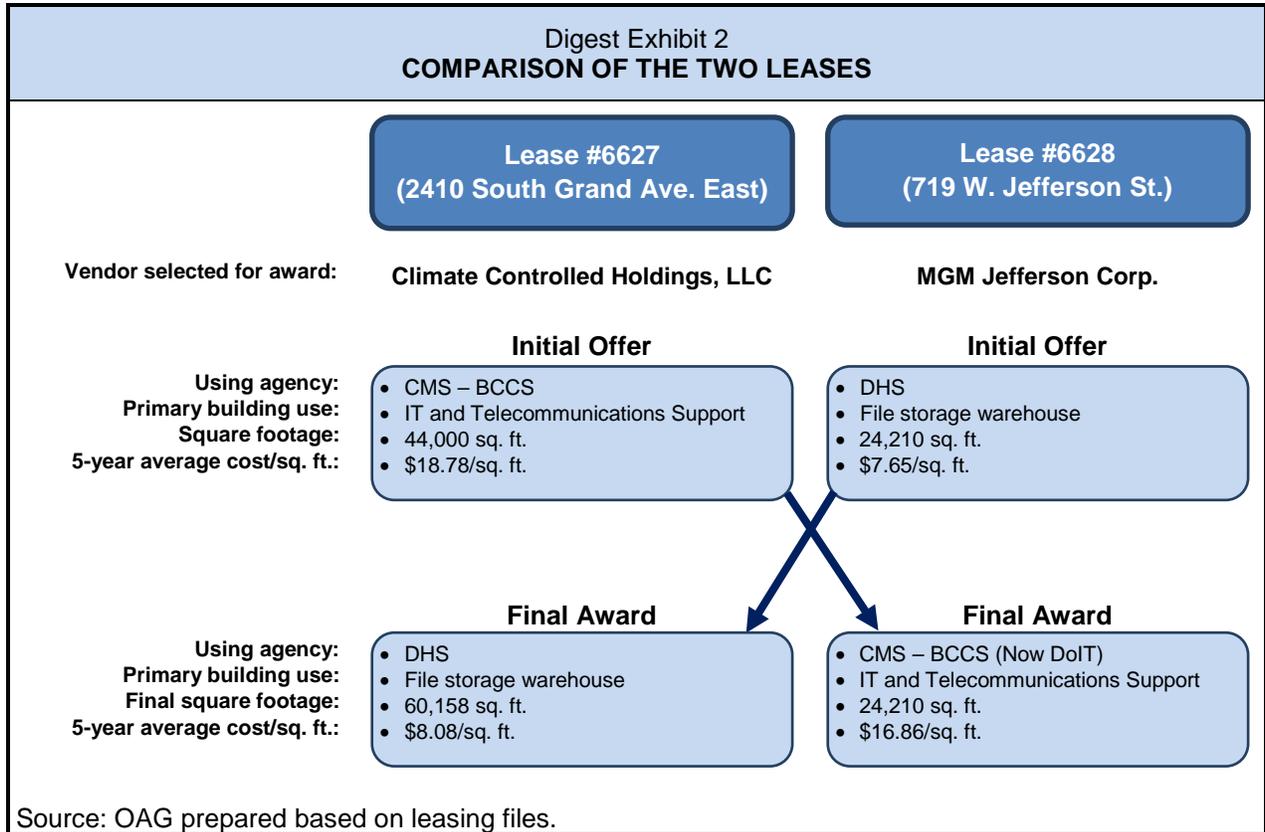
State Purchasing Officers, under the authority of the Chief Procurement Office (CPO) for General Services, have the authority to approve or reject contracts. However, the State Purchasing Officer responsible for reviewing the leases could not provide documentation of review other than emails to CMS stating “done” in reference to the publication of notices to the Illinois Procurement Bulletin.

CMS and the Chief Procurement Office for General Services have characterized the switch of the leases as substituting using agencies. The State Purchasing Officer cited a section of the standard lease agreement that allows for a change in the using agency. However, the section would only apply once the lease was executed. Secondly, and more importantly, **the switch was not a simple substituting of using agencies. Not only were the agencies changed, the purposes of the leases were changed, the structural layouts were changed, the tenant space requirements were changed, and the prices offered were changed.** In summary:

- DHS requested 26,000 square feet for a warehouse which was initially awarded to MGM Jefferson Corporation, which offered 24,210 square feet for property located on W. Jefferson St. in Springfield. DHS was moved to a 60,158 square foot warehouse located on South Grand Ave. East in Springfield. MGM Jefferson Corporation submitted a bid for a warehouse but was awarded an IT and Telecommunications Support Center.
- BCCS requested 44,000 square feet of office and warehouse space which was initially awarded to Climate Controlled Holdings, which offered 44,000 square feet, plus additional space if needed, for property located on South Grand Ave. East. BCCS was instead moved to the 24,210 square foot facility located on W. Jefferson St. Climate Controlled Holdings submitted a bid for an IT and Telecommunications Support Center but was awarded a warehouse.

Digest Exhibit 2 compares the two leases from the initial offer to the final award. For example, for lease #6627, the using agency, primary building use, square footage, and cost per square foot all changed from the time of the initial offer to the final award. The cost per square foot decreased from initial offer to final award for one lease and increased for the other.

The exhibit also shows the shifting of the leases. The arrows show the IT and Telecommunications Support Center shifting from one lease to the other; the same shift occurred for the DHS file storage warehouse. (pages 26-35)



**Information Related to the Audit Determinations**

The audit determinations are discussed extensively in Chapter Three. Digest Exhibit 3 summarizes the status of the determinations. Following are the key findings related to the audit determinations.

**DHS could not provide documentation demonstrating any cost savings resulting from consolidating files.**

To justify the need for a new warehouse, DHS cited the poor conditions at Dwight Correctional Center and the need to consolidate files located at Family Community Resource Centers. DHS stated “*This lease will end up saving a great deal of money as the warehouse space will be considerably less expensive than housing the files in the local offices.*” However, **DHS could not provide documentation to show an analysis had been conducted to demonstrate any cost savings.**

<b>Digest Exhibit 3 SUMMARY OF AUDIT DETERMINATIONS</b>	
<b>Determination</b>	<b>Status</b>
1) <i>The justification for the space request by DHS, including the location and condition of the premises where the records were previously stored and the functions were previously performed ("existing space").</i>	<ul style="list-style-type: none"> <li>DHS submitted a space request with a justification that the conditions at Dwight had deteriorated and that consolidating files would save money. However, DHS could not document any cost savings. In addition, the amount of space requested in the DHS space request was insufficient to accommodate the files stored at Dwight.</li> </ul>
2) <i>Whether CMS or other appropriate State agencies considered renovating the existing space and, if so, what projections were made for the cost of renovating the existing space.</i>	<ul style="list-style-type: none"> <li>CMS did not consider renovating space at Dwight Correctional Center. No cost projections were made to consider the costs of renovating versus leasing new space.</li> </ul>
3) <i>Whether CMS considered the availability of other State-owned or leased space before the decision to enter into a new lease was made, including what specific State-owned or leased properties were reviewed prior to making the decision to enter into a new lease.</i>	<ul style="list-style-type: none"> <li>CMS did consider the availability of other State-owned and leased space before the decision to proceed with the DHS warehouse space request and concluded that no space was available.</li> </ul>
4) <i>Whether CMS conducted an analysis of the cost-benefit of purchasing instead of leasing the property at 2410 South Grand Ave. East, Springfield, Illinois, including costs associated with renovating and maintaining the property.</i>	<ul style="list-style-type: none"> <li>CMS did not conduct an analysis of the cost-benefit of purchasing instead of leasing the property at 2410 South Grand Ave. East. The only analysis conducted was a fiscal analysis of bids that CMS performs for every lease.</li> </ul>
5) <i>Whether DHS or any other appropriate State agency has conducted a cost-benefit analysis comparing the costs of digitizing records as compared to maintaining records in hard copy form, including the costs of storage, access, and travel, if any, to retrieve hard copy records for various official purposes, as well as the security risks of confidential records in one form as compared to the other.</i>	<ul style="list-style-type: none"> <li>DHS has not conducted a comprehensive cost-benefit analysis comparing the costs of digitizing records as compared to maintaining records in hard copy form.</li> </ul>
6) <i>The role of the Procurement Policy Board in reviewing the lease, including whether the Board has any conflict-of-interest procedures for members to recuse themselves because of personal, professional, or financial relationships.</i>	<ul style="list-style-type: none"> <li>The DHS warehouse lease was not discussed or voted on at the Board’s October 2016 meeting. The Board has no conflict of interest policies, but it does complete annual ethics training and has an unofficial practice of recusal in situations where there are conflicts of interest</li> </ul>
7) <i>Identification of the persons involved in the procurement, and their respective roles and responsibilities.</i>	<ul style="list-style-type: none"> <li>See Appendix C for a list of those involved, their titles, and their respective roles.</li> </ul>
8) <i>The process, time frame, and coordination followed by CMS in examining the lease requirements and advertising the procurement opportunity, including any steps taken to ensure adequate competition.</i>	<ul style="list-style-type: none"> <li>CMS has procedures in place for examining lease requirements and advertising the procurement. However, for one of the leases, other than posting to the Procurement Bulletin, no additional outreach was done to increase awareness of the lease and to ensure adequate competition.</li> </ul>
9) <i>Whether any confidential information was shared between the CMS leasing agent and any of the bidders or potential bidders in the procurement process.</i>	<ul style="list-style-type: none"> <li>The CMS Leasing Representative shared pricing information between the bidders selected for the awards of the two leases. This information was shared after CMS made the decision to switch the leases but prior to the final award and was done to facilitate negotiations on final pricing for the altered leases.</li> </ul>
10) <i>The decision of CMS to proceed with the warehouse lease after receiving only one bid.</i>	<ul style="list-style-type: none"> <li>The warehouse lease received four bids. The State’s decision to switch leases is discussed in Chapter Two.</li> </ul>
11) <i>Whether relationships between the seller of the property ("Barney's"), the buyer of the property, and the chairman of the Procurement Policy Board played a role in the warehouse lease.</i>	<ul style="list-style-type: none"> <li>Based on an examination of the lease files and other emails, as well as interviews with those involved, we found no evidence that relationships played a role in the warehouse lease.</li> </ul>
Source: OAG summary of the audit determinations.	

**The amount of space requested in the DHS space request was insufficient to meet its needs.**

The amount of space requested in the DHS space request was insufficient to accommodate the files being stored at Dwight. That is without even considering any additional files that would be moved from other locations. DHS relied on advice from CMS in developing the space request but, as the agency submitting the space request, DHS is ultimately responsible for submitting an accurate request that fully accommodates its needs. (pages 38-41)

CMS did not consider renovating space at Dwight Correctional Center. No cost projections were made to consider the costs of renovating versus leasing new space. CMS did not consider Dwight as functional enough to do an analysis on renovation. (pages 41-42)

CMS did consider the availability of other State-owned and leased space before the decision to proceed with the DHS warehouse space request and concluded that no space was available. CMS does not typically consider shuttered properties, such as prisons, because they are not acceptable for occupancy due to the same issues seen at Dwight. (pages 42-44)

**CMS did not conduct an analysis of the cost-benefit of purchasing instead of leasing the property at 2410 South Grand Ave. East.**

CMS did not conduct an analysis of the cost-benefit of purchasing instead of leasing the property at 2410 South Grand Ave. East. Officials from CMS and the Capital Development Board signed a certification attesting that the lease was in the best interest of the State considering, among other items, “...*the cost-benefits of purchasing or constructing new space.*” However, it is impossible to know whether the lease is in the best interest of the State if a cost-benefit analysis of purchasing versus leasing is not performed. (pages 44-45)

**DHS has not conducted a comprehensive cost-benefit analysis of digitizing records.**

DHS has not conducted a comprehensive cost-benefit analysis comparing the costs of digitizing records as compared to maintaining records in hard copy form. The analysis DHS provided was completed in May 2017 after the warehouse lease was awarded. The analysis contained two estimates that had substantially different total costs, did not include sufficient support for how the estimates were determined, and did not address any of the points in the audit resolution. (pages 46-47)

The Procurement Policy Board has the authority to review leases and object to leases. However, the DHS warehouse lease was not discussed or voted on at its October 2016 meeting. Because the Board did not object to the lease, it became effective at the end of the Board’s 30-day review period. The Board has no conflict of interest policies, but it does complete annual ethics training and has an unofficial practice of recusal in situations where there are conflicts of interest. (pages 48-49)

CMS generally followed its leasing procedures in preparing the leases for publication. However, for one of the leases, other than posting to the Procurement Bulletin, no additional outreach was done to increase awareness of the lease to ensure adequate competition. In addition, the geographic boundaries may have been unduly restrictive. (pages 53-55)

CMS officials said that they were unaware of any sharing of confidential information. However, emails indicated that the CMS Leasing Representative did share pricing information between the bidders selected for the awards for the two leases. This information was shared after CMS made the decision to switch the leases but prior to the final award and was done to facilitate negotiations on final pricing for the altered leases. (pages 56-57)

Based on an examination of the lease files and other emails, as well as interviews with those involved, we found no evidence that relationships played a role in the warehouse lease. (pages 58-59)

**Other Issues**

**The information provided by CMS to the Procurement Policy Board for the DHS warehouse lease was misleading and incomplete.**

The switching of leases lacked transparency. The information provided by CMS to the Procurement Policy Board for the DHS warehouse lease was misleading and incomplete which hampered the Board’s ability to review the lease. Based on the information provided, the Board would have been unable to tell that the lease originated as an IT and Telecommunications Support Center. A draft version of the white paper prepared by CMS contained additional explanatory language that was removed in the final version sent to the Board. (pages 62-65)

The Illinois Procurement Code provides authority to Procurement Compliance Monitors to review procurements and report any findings to the agency and the Chief Procurement Officer. In the spring of 2017, after the leases were executed, the Executive Director of the Executive Ethics Commission directed a Procurement Compliance Monitor to examine the leases. However, the Procurement Compliance Monitor was directed to stop his review by the Commission when the Commission voted to refer the matter to the Office of the Executive Inspector General. No report on findings was provided to CMS or the Chief Procurement Officer. The Executive Director stated that once the Commission referred allegations and related documents to the Executive Inspector General, the State Officials and Employees Ethics Act confidentiality provisions come into play and commission members, their employees, and agents were required to keep the matter confidential and not disclose it. However, if agencies are not provided a report on the findings of reviews conducted, the agencies are unable to correct any procurement deficiencies. (pages 65-66)

The Illinois Procurement Code gives responsibility to the chief procurement officers for publishing procurement notices to the Illinois Procurement Bulletin. For the two leases examined, posting to the Illinois Procurement Bulletin did not contain all of the information required by the Illinois Procurement Code and the General Services Standard Procurement Rules. In addition, for one of the leases, the procurement reference number was changed in the final award notice making it more difficult to track the lease from the initial posting. (pages 67-70)

For real property lease procurements, the Illinois Procurement Code requires State Purchasing Officers to make a written determination identifying responses that meet the minimum criteria. However, the State Purchasing

Officer’s review did not meet this requirement. In addition, there were no procedures in place to ensure the State Purchasing Officer’s comments and approval of the procurement process were documented. (pages 71-72)

**RECOMMENDATIONS**

This audit report contains ten recommendations: five recommendations directed to CMS; two recommendations directed to the CPO; one recommendation directed to both CMS and the CPO; one recommendation directed to DHS; and one recommendation directed to the Procurement Policy Board. The agencies generally agreed with the recommendations with the exception of the CPO who disagreed with Recommendation Number One. Appendix E to the audit report contains the agency responses.

This performance audit was conducted by staff of the Office of the Auditor General.

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Joe Butcher  
Audit Manager

This report is transmitted in accordance with Sections 3-14 and 3-15 of the Illinois State Auditing Act.

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FRANK J. MAUTINO  
Auditor General

FJM:DJB



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## Chapter One

# INTRODUCTION AND BACKGROUND

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## REPORT CONCLUSIONS

Dwight Correctional Center (Dwight) was closed effective March 26, 2013. In October 2013, the Illinois Department of Corrections submitted a request to the Department of Central Management Services (CMS) to surplus the Dwight property. At that time, it was decided to use the prison site for Department of Human Services (DHS) file storage. DHS began moving file cabinets and boxes to Dwight in January 2014.

In September 2015, DHS submitted a space request to CMS for new file storage space in Central Illinois. The conditions at Dwight had deteriorated and DHS also needed additional space to consolidate files from local offices. On October 4, 2016, the DHS warehouse was awarded to Climate Controlled Holdings, LLC for a facility located at 2410 South Grand Ave. East in Springfield, Illinois.

On June 28, 2017, the Illinois General Assembly adopted House Joint Resolution Number 63 which directed the Auditor General to conduct a performance audit of the State's decision to enter into a five-year \$2.4 million lease for property at 2410 South Grand Ave. East. The audit resolution contained 11 determinations.

The decision to enter into the lease actually involved two different leases. The lease at 2410 South Grand Ave. East is for a DHS file storage warehouse. However, this lease originated as an IT (Information Technology) and Telecommunications Support Center for the Department of Innovation and Technology (DoIT). The DHS warehouse originated under a different lease. After the winning vendors were selected but prior to the final award, CMS switched the purposes of the leases and the using agencies.

- In September 2015, DHS submitted a space request to CMS for a new **file warehouse** in Central Illinois. The solicitation was issued and four bids were received by the due date of December 15, 2015. On April 20, 2016, an offer was selected from MGM Jefferson Corporation for property at 719 W. Jefferson St. in Springfield, Illinois.
- In September 2015, the CMS Bureau of Communications and Computer Services (BCCS), which is now DoIT, submitted a space request for an **IT and Telecommunications Support Center** to be located in Springfield. The solicitation was issued twice with no bids received. The solicitation was issued a third time with two bids received by the due date of February 24, 2016. On April 20, 2016, an offer was selected from Climate Controlled Holdings, LLC for property at 2410 South Grand Ave. East in Springfield, Illinois.

On July 8, 2016, CMS decided to switch the lease facilities, awarding the DHS file warehouse to Climate Controlled Holdings and awarding the IT and Telecommunications Support Center to MGM Jefferson Corporation. It appeared that the decision to switch the leases was done with the intent of finding the best fit for the agencies as well as protecting both prospective landlords from loss of time, effort, and monies already expended.

However, **CMS violated a provision of the Illinois Procurement Code by awarding leases to vendors who were not qualified respondents for the leases awarded.** Climate Controlled Holdings was not a qualified respondent under the Procurement Code as it had not submitted a response for the warehouse lease. Conversely, MGM Jefferson Corporation was awarded the BCCS IT and Telecommunications Support Center but was not a qualified respondent as it had submitted a response for the warehouse lease. **This was no fault of the vendors as the decision to switch leases was made by CMS.**

The solicitation document, called the Request for Information, for each lease contained language on the selection of the winning vendor. **Offers were evaluated and awards selected based on the requirements set forth in the Request for Information. These requirements were then changed.** When CMS decided to switch the leases, officials did not give other responders the opportunity to change their bids to meet the new lease requirements violating the principle of fair and equal treatment. Also, by not rebidding the DHS warehouse lease or the BCCS IT and Telecommunications Support Center lease, CMS may have excluded potential bidders who were not afforded the opportunity to bid on the new space requirements.

State Purchasing Officers, under the authority of the Chief Procurement Office for General Services, have the authority to approve or reject contracts. However, the State Purchasing Officer responsible for reviewing the leases could not provide documentation of review other than emails to CMS stating “done” in reference to the publication of notices to the Illinois Procurement Bulletin.

CMS and the Chief Procurement Office for General Services have characterized the switch of the leases as substituting using agencies. The State Purchasing Officer cited a section of the standard lease agreement that allows for a change in the using agency. However, the section would only apply once the lease was executed. Secondly, and more importantly, **the switch was not a simple substituting of using agencies. Not only were the agencies changed, the purposes of the leases were changed, the structural layouts were changed, the tenant space requirements were changed, and the prices offered were changed.** In summary:

- DHS requested 26,000 square feet for a warehouse which was initially awarded to MGM Jefferson Corporation, which offered 24,210 square feet for property located on W. Jefferson St. in Springfield. DHS was moved to a 60,158 square foot warehouse located on South Grand Ave. East in Springfield. MGM Jefferson Corporation submitted a bid for a warehouse but was awarded an IT and Telecommunications Support Center.
- BCCS requested 44,000 square feet of office and warehouse space which was initially awarded to Climate Controlled Holdings, which offered 44,000 square feet, plus additional space if needed, for property located on South Grand Ave. East. BCCS was instead moved to the 24,210 square foot facility located on W. Jefferson St. Climate

Controlled Holdings submitted a bid for an IT and Telecommunications Support Center but was awarded a warehouse.

The following exhibit shows the differences in the prices offered by both Climate Controlled Holdings and MGM Jefferson Corporation in the original offers compared to the prices in the final leases. The prices increased for one and decreased for the other. The exhibit also shows the difference in total space.

SUMMARY OF INITIAL OFFER AND FINAL LEASE		
	<b>Lease #6627</b>	
	<u>Initial Offer</u> <b>BCCS IT and Telecommunications Support Center</b> (44,000 sq. ft.)	<u>Final Lease</u> <b>DHS Warehouse</b> (60,158 sq. ft.)
<b>Climate Controlled Holdings</b>		
5 Year Average	\$18.78/sq. ft.	\$8.08/sq. ft.
	<b>Lease #6628</b>	
	<u>Initial Offer</u> <b>DHS Warehouse</b> (24,210 sq. ft.)	<u>Final Lease</u> <b>BCCS IT and Telecommunications Support Center</b> (24,210 sq. ft.)
<b>MGM Jefferson Corporation</b>		
5 Year Average	\$7.65/sq. ft.	\$16.86/sq. ft. <sup>1</sup>
<sup>1</sup> Price includes \$6.73 per square foot to amortize temporary improvements totaling \$702,570 made by the lessor to meet the new space requirements. Source: OAG analysis of initial offers and final leases.		

**Information Related to the Audit Determinations**

To justify the need for a new warehouse, DHS cited the poor conditions at Dwight Correctional Center and the need to consolidate files located at Family Community Resource Centers. DHS stated *“This lease will end up saving a great deal of money as the warehouse space will be considerably less expensive than housing the files in the local offices.”* However, **DHS could not provide documentation to show an analysis had been conducted to demonstrate any cost savings.**

The amount of space requested in the DHS space request was insufficient to accommodate the files being stored at Dwight. That is without even considering any additional files that would be moved from other locations. DHS relied on advice from CMS in developing the space request but, as the agency submitting the space request, DHS is ultimately responsible for submitting an accurate request that fully accommodates its needs.

CMS did not consider renovating space at Dwight Correctional Center. No cost projections were made to consider the costs of renovating versus leasing new space. CMS did not consider Dwight as functional enough to do an analysis on renovation.

CMS did consider the availability of other State-owned and leased space before the decision to proceed with the DHS warehouse space request and concluded that no space was available. CMS does not typically consider shuttered properties, such as prisons, because they are not acceptable for occupancy due to the same issues seen at Dwight.

CMS did not conduct an analysis of the cost-benefit of purchasing instead of leasing the property at 2410 South Grand Ave. East. Officials from CMS and the Capital Development Board signed a certification attesting that the lease was in the best interest of the State considering, among other items, “...*the cost-benefits of purchasing or constructing new space.*” However, it is impossible to know whether the lease is in the best interest of the State if a cost-benefit analysis of purchasing versus leasing is not performed.

DHS has not conducted a comprehensive cost-benefit analysis comparing the costs of digitizing records as compared to maintaining records in hard copy form. The analysis DHS provided was completed in May 2017 after the warehouse lease was awarded. The analysis contained two estimates that had substantially different total costs, did not include sufficient support for how the estimates were determined, and did not address any of the points in the audit resolution.

The Procurement Policy Board (Board) has the authority to review leases and object to leases. However, the DHS warehouse lease was not discussed or voted on at its October 2016 meeting. Because the Board did not object to the lease, it became effective at the end of the Board’s 30-day review period. The Board has no conflict of interest policies, but it does complete annual ethics training and has an unofficial practice of recusal in situations where there are conflicts of interest.

CMS generally followed its leasing procedures in preparing the leases for publication. However, for one of the leases, other than posting to the Procurement Bulletin, no additional outreach was done to increase awareness of the lease to ensure adequate competition. In addition, the geographic boundaries may have been unduly restrictive.

CMS officials said that they were unaware of any sharing of confidential information. However, emails indicated that the CMS Leasing Representative did share pricing information between the bidders selected for the awards for the two leases. This information was shared after CMS made the decision to switch the leases but prior to the final award and was done to facilitate negotiations on final pricing for the altered leases.

Based on an examination of the lease files and other emails, as well as interviews with those involved, we found no evidence that relationships played a role in the warehouse lease.

### **Other Issues**

The switching of leases lacked transparency. The information provided by CMS to the Procurement Policy Board for the DHS warehouse lease was misleading and incomplete which hampered the Board’s ability to review the lease. Based on the information provided, the Board would have been unable to tell that the lease originated as an IT and Telecommunications Support Center. A draft version of the white paper prepared by CMS contained additional explanatory language that was removed in the final version sent to the Board.

The Illinois Procurement Code provides authority to Procurement Compliance Monitors to review procurements and report any findings to the agency and the Chief Procurement Officer. In the spring of 2017, after the leases were executed, the Executive Director of the Executive Ethics Commission directed a Procurement Compliance Monitor to examine the leases. However, the Procurement Compliance Monitor was directed to stop his review by the Commission when the Commission voted to refer the matter to the Office of the Executive Inspector General. No report on findings was provided to CMS or the Chief Procurement Officer. The Executive Director stated that once the Commission referred allegations and related documents to the Executive Inspector General, the State Officials and Employees Ethics Act confidentiality provisions come into play and commission members, their employees, and agents were required to keep the matter confidential and not disclose it. However, if agencies are not provided a report on the findings of reviews conducted, the agencies are unable to correct any procurement deficiencies.

The Illinois Procurement Code gives responsibility to the chief procurement officers for publishing procurement notices to the Illinois Procurement Bulletin. For the two leases examined, posting to the Illinois Procurement Bulletin did not contain all of the information required by the Illinois Procurement Code and the General Services Standard Procurement Rules. In addition, for one of the leases, the procurement reference number was changed in the final award notice making it more difficult to track the lease from the initial posting.

For real property lease procurements, the Illinois Procurement Code requires State Purchasing Officers to make a written determination identifying responses that meet the minimum criteria. However, the State Purchasing Officer's review did not meet this requirement. In addition, there were no procedures in place to ensure the State Purchasing Officer's comments and approval of the procurement process were documented.

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## INTRODUCTION

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On June 28, 2017, the Illinois General Assembly adopted House Joint Resolution Number 63 which directed the Auditor General to conduct a performance audit of the State’s decision to enter into a five-year \$2.4 million lease for property at 2410 South Grand Ave. East in Springfield, Illinois (see Appendix A). Specifically, the resolution asked that the audit determine:

1. The justification for the space request by the Department of Human Services (DHS), including the location and condition of the premises where the records were previously stored and the functions were previously performed ("existing space");
2. Whether the Department of Central Management Services (CMS) or other appropriate State agencies considered renovating the existing space and, if so, what projections were made for the cost of renovating the existing space;
3. Whether CMS considered the availability of other State-owned or leased space before the decision to enter into a new lease was made, including what specific State-owned or leased properties were reviewed prior to making the decision to enter into a new lease;
4. Whether CMS conducted an analysis of the cost-benefit of purchasing instead of leasing the property at 2410 South Grand Ave. East, Springfield, Illinois, including costs associated with renovating and maintaining the property;
5. Whether DHS or any other appropriate State agency has conducted a cost-benefit analysis comparing the costs of digitizing records as compared to maintaining records in hard copy form, including the costs of storage, access, and travel, if any, to retrieve hard copy records for various official purposes, as well as the security risks of confidential records in one form as compared to the other;
6. The role of the Procurement Policy Board ("Board") in reviewing the lease, including whether the Board has any conflict-of-interest procedures for members to recuse themselves because of personal, professional, or financial relationships;
7. Identification of the persons involved in the procurement, and their respective roles and responsibilities;
8. The process, time frame, and coordination followed by CMS in examining the lease requirements and advertising the procurement opportunity, including any steps taken to ensure adequate competition;
9. Whether any confidential information was shared between the CMS leasing agent and any of the bidders or potential bidders in the procurement process;
10. The decision of CMS to proceed with the warehouse lease after receiving only one bid; and

11. Whether relationships between the seller of the property ("Barney's"), the buyer of the property, and the chairman of the Procurement Policy Board played a role in the warehouse lease.

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## **AGENCIES INVOLVED**

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Three different agencies are specifically named in the audit resolution: the Department of Central Management Services, the Department of Human Services, and the Procurement Policy Board. In addition, we also met with officials from the Department of Innovation and Technology, the Chief Procurement Office for General Services, and the Executive Ethics Commission. Appendix C contains a list of persons involved with the procurement.

### **Central Management Services**

The CMS Bureau of Property Management operates, maintains, and manages more than 600 State-owned and leased facilities. These facilities provide space for agencies, boards, and commissions under the Governor, plus offices of the General Assembly, and other statewide constitutional officers. The facilities management program provides services including leasing, maintenance, and property management. The Bureau of Property Management also is responsible for surplus real estate no longer needed by agencies.

Officials within the Bureau of Property Management are primarily involved with lease procurements, overseeing the leasing process from start to finish. Bureau of Property Management officials work with other agencies as well as the offerors with the goal of providing office and facilities space at the lowest cost to taxpayers.

### **Department of Human Services**

The DHS Operations' Division of Business Services was responsible for initiating the space request for the DHS warehouse. The files that were stored at Dwight Correctional Center were mainly from the DHS Division of Family and Community Services. The leasing procedures at CMS include the using agency's involvement as follows:

- Submitting the space request;
- Reviewing and approving the agency programmed requirements which outline in detail the space required and the building requirements;
- Approving the geographic boundaries; and
- Participating in site suitability visits with the CMS Leasing Representative.

### **Procurement Policy Board**

The Procurement Policy Board (Board) was created by the Illinois Procurement Code (30 ILCS 500) on July 1, 1998. It is the Board's authority and responsibility to review, comment upon, and recommend, consistent with the Procurement Code, rules and practices governing, among other things, real property and capital improvement leases procured by the State.

The Board is comprised of five members, one each appointed by the legislative leaders and one by the Governor. The appointee of the Governor serves as the Chair of the Board. Appointees to the Board receive no compensation for their duties as Board members.

The Procurement Policy Board meets monthly to discuss Board business. The Illinois Procurement Code requires the Board to review any proposed lease of real property of 10,000 or more square feet or any proposed lease of real property with annual rent payments of \$100,000 or more. The Board is to be given 30 days to perform its review of leases. If the Board does not object in writing within 30 days, then the proposed lease becomes effective according to the terms of the lease. (30 ILCS 500/40-20(e))

### **Chief Procurement Office for General Services**

The Procurement Code established four Chief Procurement Officers including the Chief Procurement Officer (CPO) for General Services. The CPO for General Services has procurement authority over real estate leases procured at CMS. State Purchasing Officers exercise the Chief Procurement Officer’s procurement authority at the agency level and review all procurements. At the direction of the Chief Procurement Officer, a State Purchasing Officer shall have the authority to approve or reject contracts for a purchasing agency.

### **Executive Ethics Commission**

The Executive Ethics Commission (EEC) appoints the Chief Procurement Officers and is also responsible for appointing procurement compliance monitors to oversee and review the procurement processes.

### **Department of Innovation and Technology**

The Department of Innovation and Technology (DoIT) was established by Executive Order 01-16 which was issued on January 25, 2016. The Executive Order directed that the CMS Bureau of Communications and Computer Services (BCCS) be consolidated into DoIT as of July 1, 2016. In September 2015, BCCS submitted a space request for an IT (Information Technology) and Telecommunications Support Center to be located in Springfield. The space selected for award for this BCCS request was subsequently changed to the DHS warehouse.

## DHS FILE STORAGE WAREHOUSE

DHS formerly stored files at the Dwight Correctional Center and currently stores these files at a newly leased warehouse located at 2410 South Grand Ave. East in Springfield, Illinois.

### Dwight Correctional Center

Dwight Correctional Center (Dwight) was closed effective March 26, 2013. In October 2013, the Illinois Department of Corrections submitted a request to CMS to surplus the Dwight property. At that time, it was decided to use the prison site for DHS file storage.

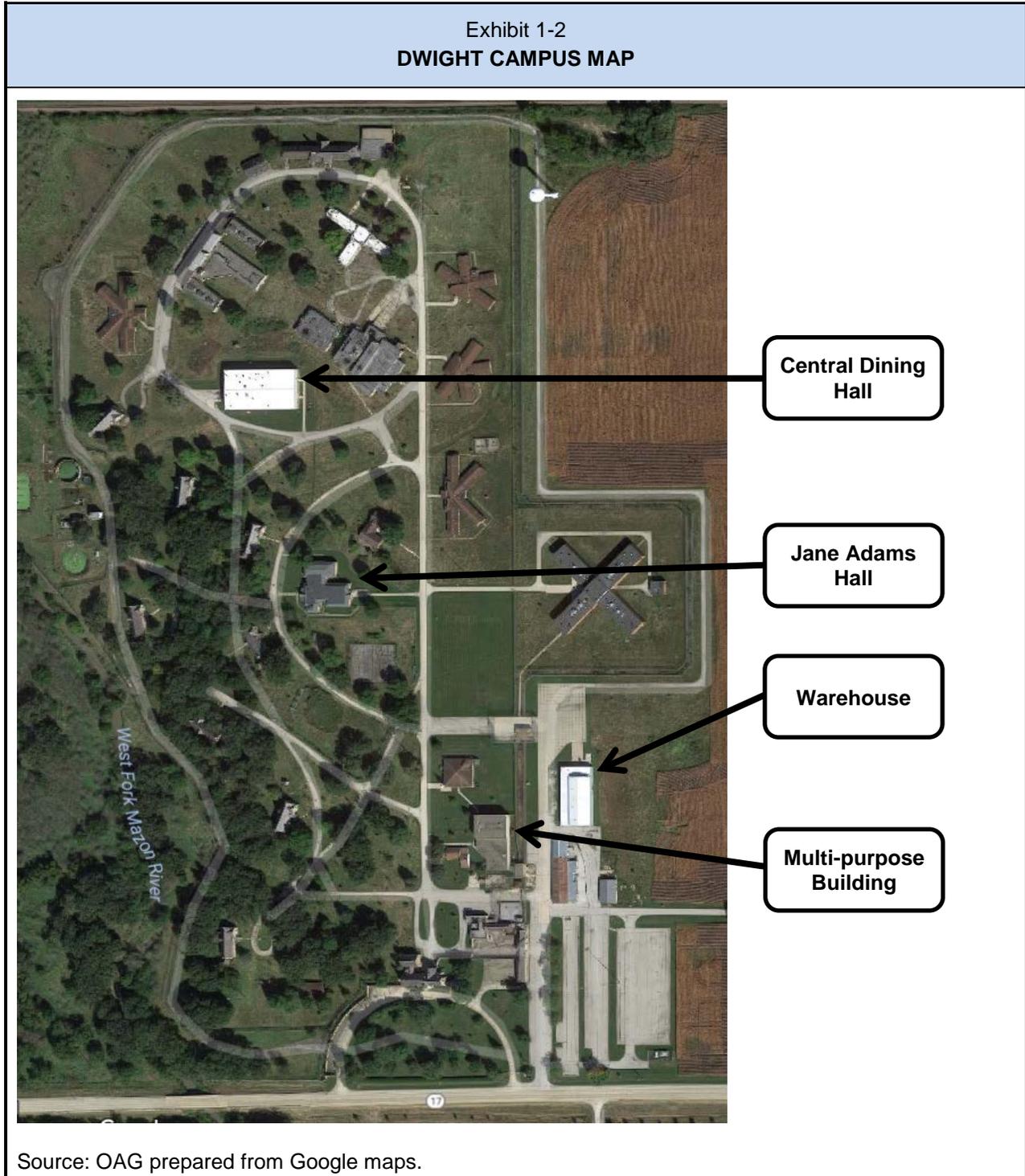
DHS occupied Dwight from January 2014 to March 2017. CMS established an interagency agreement with DHS which became effective December 23, 2014. Rent was waived but DHS agreed to pay 80 percent of the utility costs. As shown in Exhibit 1-1, DHS made payments to CMS totaling \$496,988 for the use of the Dwight facility. The monthly payments began in December 2014 and changed periodically as new rates were established.

DHS incurred costs to move files from the local Family and Community Resource Centers to the Dwight facility. DHS provided documentation showing estimated costs of \$265,457 to move filing cabinets and boxes beginning in January 2014 up through February 2016.

The following pages show the Dwight campus map and the location of the buildings that were occupied by DHS (see Exhibit 1-2). The buildings were not adjacent to each other. In addition, the warehouse was located outside of the main gate. Also shown are some pictures we took during a site visit in October 2017 after all of the files had been removed. The pictures do not capture all of the space in the building but are examples of some of the better areas. For example, the

Exhibit 1-1 DHS PAYMENTS TO CMS FOR USE OF DWIGHT CORRECTIONAL CENTER	
<b>Fiscal Year 2015</b>	
Dec-14.....	\$32,238.24
Jan-15 .....	12,750.08
Feb-15 .....	12,750.08
Mar-15 .....	1,232.30
Apr-15.....	9,249.58
May-15 .....	9,249.58
Jun-15 .....	<u>9,249.58</u>
<b>FY15 Total</b>	<b>\$86,719.44</b>
<b>Fiscal Year 2016</b>	
Jul-15.....	\$9,249.58
Aug-15.....	9,249.58
Sep-15.....	9,249.58
Oct-15.....	18,034.25
Nov-15.....	18,034.25
Dec-15.....	20,038.49
Jan-16 .....	18,702.33
Feb-16 .....	18,702.33
Mar-16 .....	18,702.33
Apr-16.....	18,702.33
May-16 .....	18,702.33
Jun-16 .....	<u>18,702.33</u>
<b>FY16 Total</b>	<b>\$196,069.71</b>
<b>Fiscal Year 2017</b>	
Jul-16.....	\$18,702.33
Aug-16.....	18,702.33
Sep-16.....	18,702.33
Oct-16.....	26,348.58
Nov-16.....	26,348.58
Dec-16.....	26,348.58
Jan-17 .....	26,348.58
Feb-17 .....	26,348.58
Mar-17 .....	<u>26,348.58</u>
<b>FY17 Total</b>	<b>\$214,198.47</b>
<b>Total Payments</b>	<b>\$496,987.62</b>
Note: Monthly payments changed periodically as new rates were established.	
Source: OAG analysis of DHS payments to CMS.	

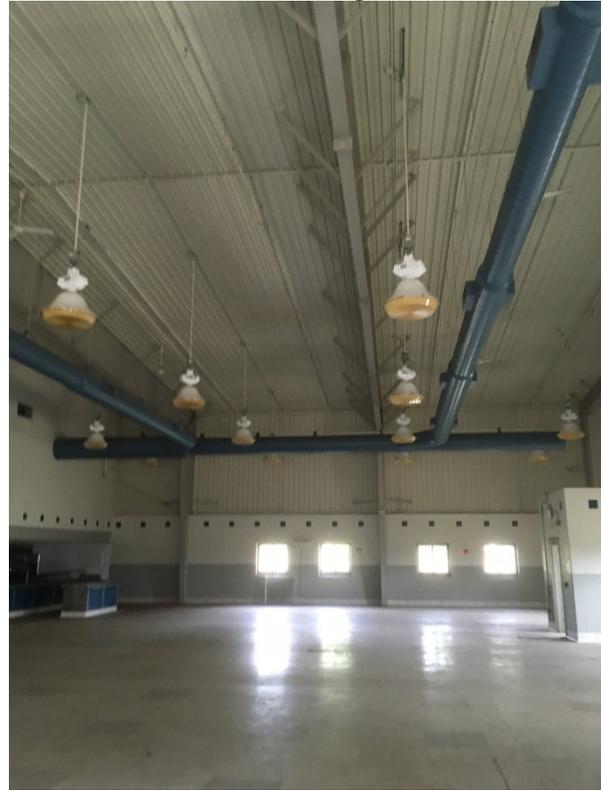
Jane Adams Hall was comprised of multiple smaller rooms and the Central Dining Hall had a large kitchen area that was unusable.



**Warehouse Building**



**Central Dining Hall**



**Multi-purpose Building**



**Jane Adams Hall**



Source: OAG site visit pictures.

### **South Grand Ave. East Location**

The property located at 2410 South Grand Ave. East in Springfield, the former Barney’s Furniture store, was initially listed for sale for \$750,000. Climate Controlled Holdings, LLC signed a contract of sale dated February 23, 2016, where it agreed to purchase the property contingent on obtaining a lease from the State. The former owner said the original sales price was \$650,000 but because of significant issues with the roof, the final sales price was \$575,000. The official date of sale was January 3, 2017.

The new owners, Climate Controlled Holdings, LLC, did a substantial amount of work to the building that was needed for the DHS warehouse lease with the State. This work included adding a loading dock and fixing the roof, as well as extensive mechanical and electrical work. Since the ownership consisted of contractors in the building industry, there was no retail cost associated with the work as it was done using in-house expertise. In April 2017, CMS did an analysis of the work done to determine what the State would have had to pay for the renovation of the building. CMS estimated it would have cost \$1,522,598 and that the fair and reasonable cost range was \$1,294,209 to \$1,750,988.

In early February 2017, DHS began moving files out of Dwight to the new warehouse on South Grand Ave. East in Springfield. DHS provided documentation showing costs of \$460,000 to move filing cabinets and boxes from Dwight to Springfield in February and March 2017. DHS continued to move additional files throughout 2017 from other local Family Community Resource Centers.

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## Chapter Two

# PROCUREMENT TIMELINE

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## CHAPTER CONCLUSIONS

House Joint Resolution Number 63 asked the Auditor General to conduct a performance audit of the State's decision to enter into a lease for property at 2410 South Grand Ave. East in Springfield. The decision to enter into the lease actually involved two different leases:

- In September 2015, the Department of Human Services (DHS) submitted a space request to the Department of Central Management Services (CMS) for a new **file warehouse** in Central Illinois. The solicitation was issued and four bids were received by the due date of December 15, 2015. On April 20, 2016, an offer was selected from MGM Jefferson Corporation for property at 719 W. Jefferson St. in Springfield, Illinois.
- In September 2015, the CMS Bureau of Communications and Computer Services (BCCS) submitted a space request for an **IT (Information Technology) and Telecommunications Support Center** to be located in Springfield. The solicitation was issued twice with no bids received. The solicitation was issued a third time with two bids received by the due date of February 24, 2016. On April 20, 2016, an offer was selected from Climate Controlled Holdings, LLC for property at 2410 South Grand Ave. East in Springfield, Illinois.

On July 8, 2016, CMS decided to switch the lease facilities, awarding the DHS file warehouse to Climate Controlled Holdings and awarding the IT and Telecommunications Support Center to MGM Jefferson Corporation. It appeared that the decision to switch the leases was done with the intent of finding the best fit for the agencies as well as protecting both prospective landlords from loss of time, effort, and monies already expended.

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State Purchasing Officers, under the authority of the Chief Procurement Office for General Services, have the authority to approve or reject contracts. However, the State Purchasing Officer responsible for reviewing the leases could not provide documentation of review other than emails to CMS stating “done” in reference to the publication of notices to the Illinois Procurement Bulletin.

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- BCCS requested 44,000 square feet of office and warehouse space which was initially awarded to Climate Controlled Holdings, which offered 44,000 square feet, plus additional space if needed, for property located on South Grand Ave. East. BCCS was instead moved to the 24,210 square foot facility located on W. Jefferson St. Climate Controlled Holdings submitted a bid for an IT and Telecommunications Support Center but was awarded a warehouse.

## INTRODUCTION

House Joint Resolution Number 63 asked the Auditor General to conduct a performance audit of the State’s decision to enter into a lease for property at 2410 South Grand Ave. East in Springfield. The decision to enter into the lease actually involved two different leases. The lease at 2410 South Grand Ave. East is for a DHS file storage warehouse. However, this lease originated as an IT and Telecommunications Support Center for the Department of Innovation and Technology (DoIT). The DHS warehouse originated under a different lease. After the winning vendors were selected but prior to the final award, CMS switched the purposes of the leases and the using agencies. The procurement timeline is shown in Exhibit 2-1 and is explained in further detail in the following sections.

## DHS FILE STORAGE WAREHOUSE

Dwight Correctional Center (Dwight) was closed effective March 26, 2013. In October 2013, the Illinois Department of Corrections submitted a request to CMS to surplus the Dwight property. At that time, it was decided to use the prison site for DHS file storage. DHS began moving file cabinets and boxes to Dwight in January 2014.

According to CMS the initial plan was to occupy two buildings (the Warehouse and the Multi-purpose Building) at Dwight and also to begin a scanning process of the files to reduce storage needs. However, the scanning process did not proceed as planned and the storage needs at Dwight increased. In December 2014, CMS entered into an interagency agreement with DHS for the use of the Dwight facility as a central file storage operation. The agreement listed four buildings to be used totaling 71,871 square feet (see inset). Not all of the square feet was usable space: for example, the kitchen area in the Central Dining Hall. The agreement included free rent but DHS agreed to pay 80 percent of the utility costs.

DHS Space Use at Dwight (based on interagency agreement)	
Warehouse	11,250 sf
Multi-purpose Building	13,845 sf
Central Dining Hall	35,142 sf
Jane Adams Hall	<u>11,634 sf</u>
<b>Total</b>	<b>71,871 sf</b>

An August 18, 2015 memo from DHS to CMS noted several issues with the condition of the Dwight facility:

- The presence of mold in three of the buildings;
- The air conditioning in the Jane Adams Hall building was not working which contributed to the mold issue;
- The Jane Adams Hall building had water issues in the basement which also was exuding a very offensive odor;
- Pest control was an issue as an employee had been stung by a wasp on two separate occasions; and
- The roof in the Warehouse was leaking water onto filing cabinets and pooling on the floors.

In addition, there were issues with the floors in one of the buildings not being able to support the weight of the filing cabinets which resulted in a risk of the floor collapsing.

Exhibit 2-1 TIMELINE OF EVENTS		
DHS Lease	Date	BCCS Lease
	08-04-15	Department of Agriculture notifies BCCS that BCCS will need to move from the building at the State Fairgrounds
DHS sends CMS a memo regarding the poor conditions at the Dwight facility	08-18-15	
CMS Statewide Facility Manager emails DHS that space usage at Dwight is 41,905 square feet	09-08-15	
DHS submits a space request to CMS for new file storage space in Central Illinois	09-10-15	
	09-14-15	BCCS submits a space request for an IT and Telecommunications Support center that will combine staff located at the State Fairgrounds and two other locations
	10-14-15	CMS issues RFI #6627 seeking 44,000 square feet of office/climate-controlled warehouse space for BCCS with a due date of 11-19-15; no bids are received
CMS issues RFI #6628 seeking 26,000 square feet of climate-controlled warehouse space for DHS with a due date of 12-01-15	11-09-15	
State Purchasing Officer cancels RFI #6628 because one offer received was inadvertently opened early in error	11-30-15	
CMS re-issues RFI #6628 with a due date of 12-15-15; four bids are received	12-01-15	
	12-07-15	CMS re-issues RFI #6627 with a due date of 01-13-16; no bids are received
	01-19-16	CMS re-issues RFI #6627 for a third time with a due date of 02-24-16; two bids are received
CMS and DHS conduct first of four site suitability visits for possible locations of the DHS warehouse	03-18-16	
	03-24-16	Following a site suitability visit, BCCS emails the CMS Leasing Representative a list of concerns with the South Grand Ave. East location
Award notice published announcing selection of an offer from MGM Jefferson Corporation for DHS for 24,210 square feet at the W. Jefferson St. location	04-20-16	Award notice published announcing selection of an offer from Climate Controlled Holdings for BCCS for 44,000 square feet at the South Grand Ave. East location
	05-04-16	Series of emails begins between BCCS and CMS discussing issues with South Grand Ave. East location
	06-13-16	Secretary Designate of DoIT emails CMS that they want to hold off on the move to the South Grand Ave. East location
	06-16-16	CMS Leasing Representative sends a draft lease to Climate Controlled Holdings for review
CMS Leasing Representative sends a draft lease to MGM Jefferson Corporation for review	06-21-16	
	07-08-16	
CMS Lease Administrator recommends switching the locations for the leases and utilizing the South Grand Ave. East location for DHS files and the W. Jefferson St. location for BCCS		
<p> <span style="display: inline-block; width: 15px; height: 15px; background-color: #c6e0b4; border: 1px solid black; margin-right: 5px;"></span> DHS warehouse facility  <span style="display: inline-block; width: 15px; height: 15px; background-color: #fce4d6; border: 1px solid black; margin-right: 5px;"></span> BCCS IT and Telecommunications Support Center  <span style="display: inline-block; width: 15px; height: 15px; background-color: #fff2cc; border: 1px solid black; margin-right: 5px;"></span> Applies to both leases                 </p>		

Exhibit 2-1 TIMELINE OF EVENTS		
DHS Lease	Date	BCCS Lease
CMS reassesses the amount of space being used by DHS at Dwight and determines the total is 36,819 square feet	07-13-16	
08-10-16 Deputy Director of the CMS Bureau of Property Management approves switching the locations for the leases		
State Purchasing Officer publishes notice of lease award for lease #6627 awarding the DHS warehouse to Climate Controlled Holdings for 60,158 square feet at the South Grand Ave. East location	10-04-16	
Lease #6627 for the DHS warehouse is a non-agenda item for the meeting of the Procurement Policy Board; no discussion of the lease	10-20-16	
Lease #6627 is signed by Director of CMS	11-03-16	
	12-22-16	State Purchasing Officer publishes notice of lease award for lease #6628 awarding the BCCS IT and Telecommunications Support Center to MGM Jefferson Corporation for 24,210 square feet at the W. Jefferson St. location
	01-19-17	The Procurement Policy Board objects to lease #6628 as it had questions regarding who is paying for the cost of ADA compliance improvements
DHS begins moving files into the new warehouse facility	Early Feb – 17	
	02-24-17	CMS provides additional information to the Procurement Policy Board which then approves lease #6628
	02-27-17	Lease #6628 is signed by the Director of CMS
<p> <span style="display: inline-block; width: 15px; height: 15px; background-color: #c6e0b4; border: 1px solid black; margin-right: 5px;"></span> DHS warehouse facility  <span style="display: inline-block; width: 15px; height: 15px; background-color: #f4cccc; border: 1px solid black; margin-right: 5px;"></span> BCCS IT and Telecommunications Support Center  <span style="display: inline-block; width: 15px; height: 15px; background-color: #fff2cc; border: 1px solid black; margin-right: 5px;"></span> Applies to both leases                 </p>		
Source: OAG analysis of lease files and emails.		

According to a CMS official, two of the buildings used (the Central Dining Hall and the Jane Adams Hall) were not intended as storage space but were used because additional space was needed.

### DHS Space Request

In September 2015, DHS submitted a space request to CMS for new file storage space in Central Illinois. Prior to submitting the space request, the CMS Statewide Facility Manager provided DHS the approximate square footage DHS was occupying at Dwight (see inset). A DHS official asked if they should request 20,000 square feet in the space request. The CMS Statewide Facility Manager replied that 25,000

DHS Space Use at Dwight (based on actual usage as of September 2015)	
Warehouse	11,250 sf
Multi-purpose Building	13,845 sf
Central Dining Hall	6,922 sf
Jane Adams Hall	<u>9,888 sf</u>
<b>Total</b>	<b>41,905 sf</b>

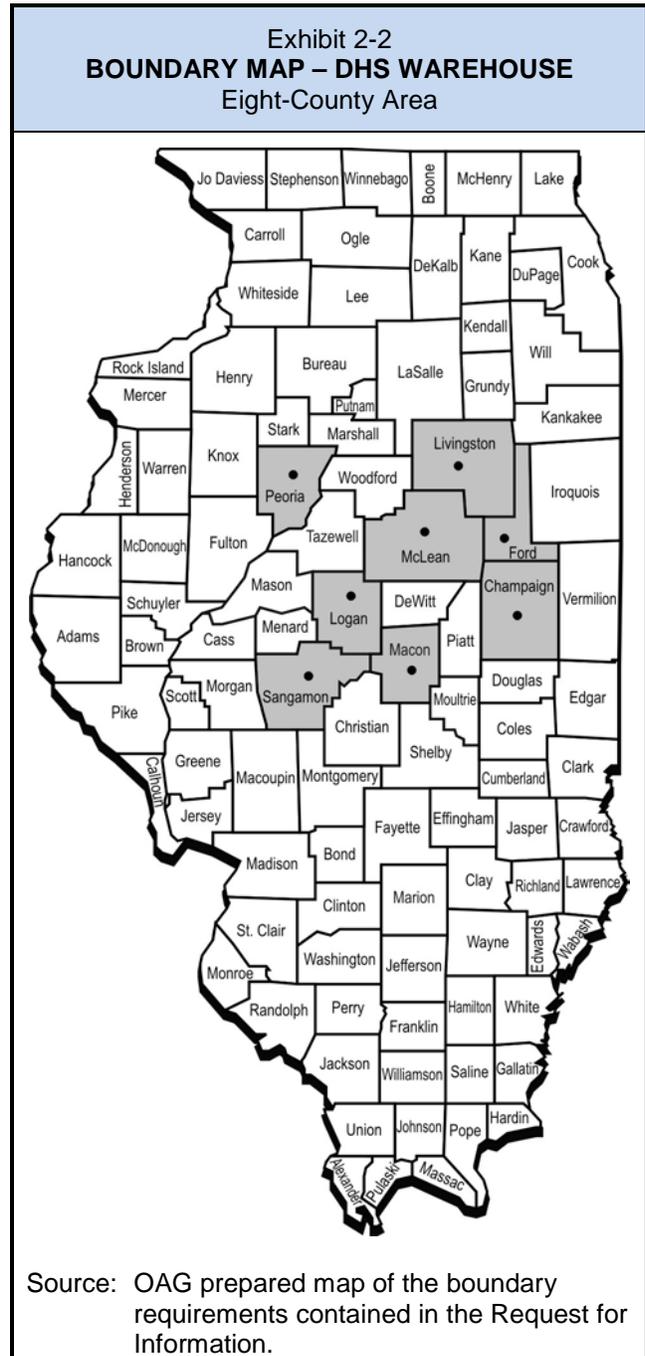
square feet would be closer to what was needed. The space request specifically noted the following:

- The total space needed was 26,292 square feet (742 square feet for personnel space, 550 square feet of common office space, and 25,000 square feet for warehouse storage).
- The warehouse space needed to be climate controlled, have a loading dock, and be able to hold the weight of 5,000 full file cabinets at 500 lbs. per cabinet.
- The desired location was an eight-county area which included the counties of Champaign, Ford, Livingston, Logan, Macon, McLean, Peoria, and Sangamon as shown in Exhibit 2-2.

Under the justification section, DHS said the space was needed due to the condition of the Dwight facility and also to consolidate files currently stored at Family Community Resource Centers. DHS also stated it would save money by consolidating files from more expensive office space to less expensive warehouse space.

While CMS provided DHS with the approximate square footage DHS was occupying at Dwight, **a formal assessment of the space usage at Dwight was not done.** The square footage amounts were provided in an email. CMS internal leasing procedures require CMS to complete a Property Management Business Case which analyzes the current space being utilized by the requesting agency including the square footage and the condition of the property.

**However, this was not completed for this lease.**



### Posting the Solicitation

On November 9, 2015, CMS issued Request for Information (RFI) #6628 seeking climate controlled warehouse space for DHS. The RFI differed slightly from the space request in that

the total space needed was 26,000 square feet (542 square feet for personnel space, 458 square feet of common office space, and 25,000 square feet for warehouse storage).

Offers were due December 1, 2015. Prior to the due date, one of the submitted offers, which had been filed with the wrong procurement, was inadvertently opened. Because of this error, on November 30, 2015, the day before the offers were due, the State Purchasing Officer cancelled the solicitation. The RFI was reissued December 1, 2015, with a due date of December 15, 2015. Four bids were received:

<u>Offeror Name</u>	<u>Facility Location</u>	<u>Square Feet</u>
BJD Properties, LLC	2100 Eastdale Ave. and 2713 Stevenson Dr. ....Springfield	20,686
Hillier Storage & Moving Co.	2728 S. 11 <sup>th</sup> St. ....Springfield	26,000
MBA Enterprises, Inc.	707 N. County Fair Dr. ....Champaign	26,000
MGM Jefferson Corporation	719 W. Jefferson St. ....Springfield	24,210

Two of the bids proposed fewer square feet than what was asked for in the RFI. The CMS official that conducted the responsiveness reviews said a bid that proposed substantially fewer square feet would not fail a responsiveness review. The site suitability portion of the evaluation would note any issues with the site proposed.

### **Site Suitability Visits**

In March and April 2016, site suitability visits were conducted at all of the locations – three in Springfield and one in Champaign. Two were conducted by both CMS and DHS employees and two by just a CMS employee. CMS evaluated the lease procurement in what is called the Offer Evaluation Workbook which is a Microsoft Excel spreadsheet. The Offer Evaluation Workbook included a tab to record the site suitability visits. The comments in the Workbook did not mention any issues with the size of the facilities visited except for the property on Eastdale Ave. where it was noted that the building was undersized.

However, when we spoke with DHS officials, they said that they expressed their concerns that the space was not big enough during the site visits at the Champaign location and the W. Jefferson St. location. We asked for any written documentation that would show DHS had objected to the size of the facilities visited. DHS could not provide written documentation but reiterated that they had verbally told both the CMS Leasing Representative and the CMS Lease Administrator that the W. Jefferson St. facility would not work for DHS.

### **Offer Selection**

On April 20, 2016, the State Purchasing Officer posted a notice on the Illinois Procurement Bulletin that CMS had selected an offer from MGM Jefferson Corporation at the W. Jefferson St. location which was the lowest offer. There was little documentation on what occurred over the next two and a half months other than emails showing CMS and MGM Jefferson Corporation working on a floor plan for the facility and finalizing lease terms. On June 21, 2016, a draft lease was sent to MGM Jefferson Corporation. There was no indication that there were any issues with the lease or the offered facility.

In July 2016, the decision was made to switch the facility that was selected for the DHS warehouse with a facility that was offered for a different lease. Before continuing with the DHS warehouse timeline, it is necessary to first describe the timeline for the other lease.

## BCCS IT AND TELECOMMUNICATIONS SUPPORT CENTER

In 2015, through an interagency agreement, the CMS Bureau of Communications and Computer Services (BCCS) was occupying Building 30 at the Illinois State Fairgrounds. In August 2015, the Department of Agriculture notified BCCS that it would like to use the building for the 2016 Illinois State Fair. BCCS prepared a space request to begin the process of vacating the building.

### BCCS Space Request

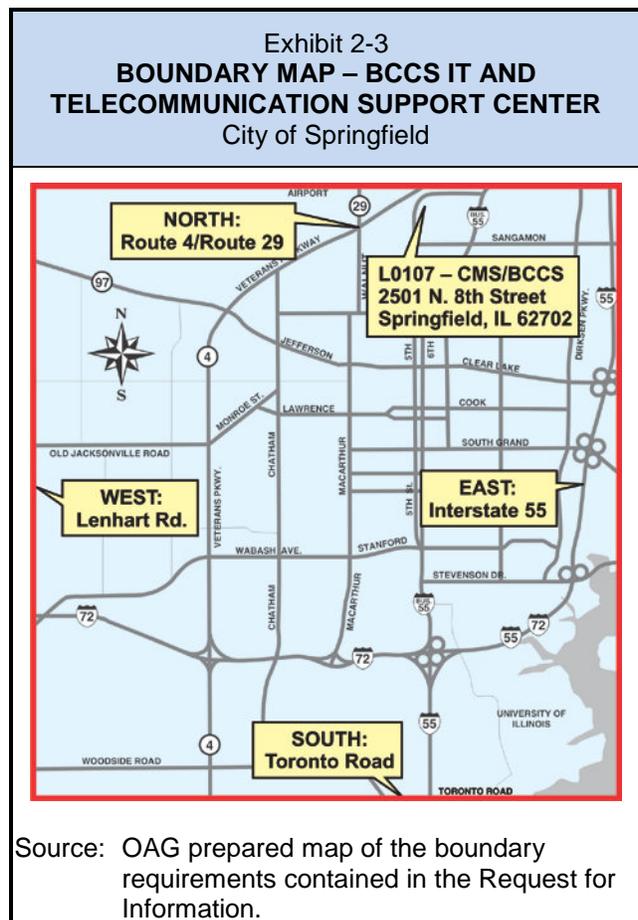
In September 2015, BCCS submitted a space request for an IT (Information Technology) and Telecommunications Support Center to be located in Springfield as shown in Exhibit 2-3. The plan was to relocate staff from three locations including the Illinois State Fairgrounds, 1920 S. 10½ St., and 120 W. Jefferson St. The space request asked for a total of 45,107 square feet of space which included 17,700 square feet of storage/warehouse space and 27,407 square feet of personnel and office space.

Under the justification section, BCCS said the move would enable the consolidation of multiple service/support units and would increase efficiency of personal computing and network services.

### Posting the Solicitation

On October 14, 2015, CMS issued Request for Information (RFI) #6627 seeking 44,000 square feet of office/climate-controlled warehouse space. Of the 44,000 square feet, 15,000 was for warehouse space. Offers were due November 19, 2015, and no bids were received. The RFI was issued again on December 7, 2015, with a due date of January 13, 2016, and again no bids were received.

The RFI was issued a third time on January 19, 2016, with a due date of February 24, 2016. Two bids were received, both from the same vendor for different locations. One location was new construction and would be built to suit. The second location was the former Barney’s



furniture store located at 2410 South Grand Ave. East, which offered 44,000 square feet of the building’s total (later calculated to be 60,158 square feet.)

### Site Suitability Visits

In March 2016, CMS and BCCS conducted a site suitability visit of the 2410 South Grand Ave. East location. On March 24, 2016, after the site visit, a BCCS official sent the CMS Leasing Representative an email outlining several concerns with the property:

1. *Lack of a loading dock for full semi-truck access. The warehouse staff requires the loading dock for loading and unloading palletized equipment from semi-trucks with the use of a forklift.*
2. *Lack of parking. The facility needs to be able to accommodate 155 staff plus 19 service vehicles. This facility is not in a location where off-site parking is available.*
3. *Safety concerns in the neighborhood. This is a higher crime area statistically than other areas of town as shown in the attached documentation from the Springfield Police Department. We have concerns for both staff safety and theft of IT equipment (desktops, laptops, tablets, monitors...). Fencing/gating around the perimeter would be a necessity if it was decided to move forward with this site, plus 24x7 security.*
4. *Lack of sufficient restrooms for 155 staff.*

There was no emailed response in the procurement file from CMS addressing BCCS’ concerns with the property. We met with BCCS’ officials who said that after they raised their concerns, they heard nothing from CMS until after the offer was selected.

### Offer Selection

On April 20, 2016, the State Purchasing Officer posted a notice on the Illinois Procurement Bulletin that CMS had selected an offer from Climate Controlled Holdings, LLC at the 2410 South Grand Ave. East location, which was the lowest offer. An email to the vendor, dated the same day, indicated that CMS viewed all of the concerns raised by BCCS as being fixable through negotiations with the vendor. Any required improvements would be amortized over the lease term.

On May 4, 2016, BCCS, having still not heard anything from CMS, emailed CMS to again express its concern with the property. The following email string shows the reluctance of BCCS to move forward with the lease.

- 
- |  |   |   |
|--|---|---|
| <ul style="list-style-type: none"> <li>• 05-04-16</li> </ul> | <p>Email from BCCS Chief Network Officer to CMS Leasing Representative and CMS Bureau of Property Management (BOPM) Deputy Director</p> | <p><i>Some of the staff are hearing “rumors” that Property Management is moving forward with leasing Barney’s as our replacement for Building 30. Based on the walk through the space does not meet our needs...</i></p>      |
| <ul style="list-style-type: none"> <li>• 05-05-16</li> </ul> | <p>Email from BOPM Deputy Director to BCCS Chief Customer Officer</p>   | <p><i>Incorrect! We have programmed this and bid this, I have heard ‘rumors’ about unsuitable and those to date are unacceptable based on pre observations of an exiting [sic] building that has not been ‘built out’</i></p> |

- 05-05-16 Email from BCCS Chief Customer Officer to BOPM Deputy Director

*...What will be done to address the concerns outlined below? We definitely need a loading dock, there isn't enough parking and the restrooms are inadequate for the number of staff that will be in the building.*
- 05-05-16 Email from BOPM Deputy Director to BCCS Chief Customer Officer

*All those concerns are being addressed. [CMS Leasing Rep] is working with the lessor. [CMS Leasing Rep] please set up a meeting to ensure these folks understand this entire buildout.*
- 05-18-16 Emails between CMS Leasing Representative and BCCS Chief Network Officer

*... I am waiting for the floor plan and the parking/security plan from the architect for this project and will set-up a meeting on-site...*

*Ok. When do you expect to have it?*

*I would like to have within the week or two.*
- 05-18-16 Email from BCCS Chief Customer Officer to CMS Leasing Representative

*My concern is that waiting for the plans moves us closer to moving into the facility which I don't believe is prudent at this point – we are about to evolve into a brand new Agency and don't know enough about how many additional staff we may get or what other facilities may be available to us once we assimilate other agencies into DoIT. I would like to postpone any moves or plans until further down the road...I hear conflicting stories about moving out of the Fairgrounds...I see no need to rush until someone gives us a compelling reason.*
- 05-19-16 Email from BOPM Deputy Director to BCCS Chief Network Officer and BCCS Chief of Staff

*What is happening here?*
- 05-20-16 Email from BCCS Chief of Staff to BOPM Deputy Director and BCCS Chief Network Officer

*Please continue with the meeting as [CMS Leasing Rep] is planning. We can address his concerns once we have the proposal.*
- 05-20-16 Email from BOPM Deputy Director to BCCS Chief Network Officer and BCCS Chief of Staff

*I spoke to [CMS Leasing Rep] this morning, the lessor is preparing floor plans which he will share with you at the meeting as well as discuss all buildout items, and anything additional your folks may have concerns with.*

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A June 1, 2016 meeting between CMS and BCCS was set but there was no further documentation of the meeting. However, CMS continued with finalizing the lease. A draft lease was sent to the vendor on June 16, 2016.

As noted in the above email string, another complicating factor was that BCCS was evolving into a new agency. The Department of Innovation and Technology (DoIT) was established by Executive Order 2016-01 which was issued on January 25, 2016. The Executive Order directed that BCCS be consolidated into DoIT as of July 1, 2016.

In a June 13, 2016 email, the Secretary Designate of DoIT stated in regards to the pending move: “...as we are consolidating, we will bring all nonconsolidated infrastructure resources in during FY17. We would want to hold off on the furniture warehouse move. Reassess our space needs and do a new RFP for space.”

On June 21, 2016, the Director of CMS responded that the solicitation could be cancelled but there would need to be a good justification for cancelling: “For the warehouse consolidation, more work has been done on this than I was aware. The lessor has spent money on space planning and other efforts. We need a very good justification to start over...relations with our landlords and potential landlords are already not great, and this affects our ability to get good space in the future. If the issue is just the location of the property, it is hard to justify a new RFP...the PPB [Procurement Policy Board] frowns on that practice. If we have a good operational/fiscal argument to make...we will certainly consider it.”

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## SWITCHING LEASE FACILITIES

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Up through the middle and end of June 2016, CMS continued to work on finalizing both leases, even submitting draft leases to both offerors.

On July 8, 2016, the CMS Lease Administrator sent an email to the CMS Bureau of Property Management Deputy Director seeking guidance on how to proceed with the two leases. Regarding the DHS warehouse, the email noted: “Negotiations are complete and a lease has been written, but has not yet been sent to the Lessor for signature...DHS is now convinced that the space will not even hold all of the current Dwight files, much less provide any room to grow.”

Regarding the BCCS IT and Telecommunications Support Center, the email noted: “Negotiations are ongoing and the landlord has been diligent in trying to accommodate BCCS’s additional requirements (security features, additional parking, etc.). I understand that BCCS is not particularly happy with this location, and more importantly that their space needs may be changing with evolution of the new DoIT agency.”

In the email, the CMS Lease Administrator recommended the following:

- Utilize the Barney’s Furniture location for the DHS files. This would provide ample space for current and future files and the property has very easy geographical access, along with the necessary amenities like loading dock, overhead doors, etc. Any required improvements should be minor.
- Utilize the West Jefferson location for the BCCS records and document warehouse. The other BCCS staff would remain at the Fairgrounds until actual space needs can be determined, at which time a new RFI would be initiated. I would think that the improvements already negotiated for DHS should be sufficient, or that any changes would be insignificant.
- This would preserve both projects and protect both prospective landlords from loss of time, effort, and monies already expended in good faith to meet our needs.

The issues raised in the July 8 email were long standing issues that had been raised by DHS and BCCS back in March, early in the process. CMS had continued to work to finalize the leases despite these issues.

## FINALIZING THE LEASES

On July 13, 2016, CMS reassessed the actual space being utilized at Dwight. This assessment was documented in an email which listed, for each building, the number of filing cabinets, boxes, and the square footage used. As shown in the adjacent text box, CMS determined that DHS was using 36,819 square feet of space. This was less than the estimated 41,905 square feet of space from the previous September at the time of the original space request. Even though CMS and DHS should have known the original space request was not sufficient, the reassessed space usage was used as justification for switching the leases.

<b>DHS Space Use at Dwight (based on actual usage as of July 13, 2016)</b>	
Warehouse	11,552 sf
Multi-purpose Building	11,246 sf
Central Dining Hall	5,930 sf
Jane Adams Hall	<u>8,091 sf</u>
<b>Total</b>	<b>36,819 sf</b>

Officials from DHS and BCCS toured the new facilities that CMS was proposing and both agreed the buildings would be suitable. CMS proceeded to negotiate new lease terms and facility layouts with the vendors.

### DHS Warehouse

The DHS warehouse would now be located at 2410 South Grand Ave. East. CMS and the vendor, Climate Controlled Holdings, agreed to new terms and the lease was signed by the vendor on September 23, 2016. The State agreed to lease the entire rentable area of the building which totaled 60,158 square feet. The State Purchasing Officer posted the award notice to the Illinois Procurement Bulletin on October 4, 2016. Information was provided to the Procurement Policy Board for consideration at its October meeting. There was no discussion of the lease at the Board’s October 20, 2016 meeting. (The Board’s review of the lease is discussed in Chapter Three under Determination #6 and the information sent to the Board is discussed in more detail in Chapter Four.) The lease was signed by the Director of CMS and went into effect November 3, 2016.

DHS began moving files from Dwight to the new warehouse facility in February 2017. In addition to moving all files from Dwight, DHS also moved 2,154 file cabinets and 4,536 file boxes from 15 different Family and Community Resource Centers from March through October 2017.

### BCCS IT and Telecommunication Support Center

The BCCS IT and Telecommunications Support Center would now be located at 719 W. Jefferson St. CMS and the vendor, MGM Jefferson Corporation, agreed to new terms and the lease was signed by the vendor on December 16, 2016. The State Purchasing Officer posted the award notice to the Procurement Bulletin on December 22, 2016. Information was provided to the Procurement Policy Board for consideration at its January 2017 meeting.

At the January 19, 2017 meeting, Board members had questions about the restrooms not meeting ADA (Americans with Disabilities Act) requirements and who would be paying to bring them in compliance. Members also questioned the six percent interest rate for amortizing improvements. As there was no one from CMS at the meeting to address the questions, the Board voted to object to the lease. At the February 24, 2017 meeting, CMS provided a written response that addressed the Board’s concerns. The Board then voted to approve the lease. The lease was signed by the Director of CMS and went into effect February 27, 2017. A series of amendments to the lease pushed the actual start of the lease to July 1, 2017. Exhibit 2-4 shows the amounts to be paid to the vendors for the two leases. As of May 8, 2018, neither vendor had received any payments on their leases from the State.

Exhibit 2-4 AMOUNTS TO BE PAID TO THE VENDORS FOR THE TWO LEASES				
	DHS Warehouse (Lease #6627)		BCCS IT and Telecommunications Support Center (Lease #6628)	
	(60,158 square feet)		(24,210 square feet)	
	Cost per Sq. Ft.	Total	Cost per Sq. Ft. <sup>1</sup>	Total
Year 1	\$7.95	\$478,256.10	\$14.40 <sup>2</sup>	\$348,624.00
Year 2	\$7.95	\$478,256.10	\$17.16	\$415,443.60
Year 3	\$8.11	\$487,881.38	\$17.37	\$420,527.70
Year 4	\$8.11	\$487,881.38	\$17.58	\$425,611.80
Year 5	\$8.27	\$497,506.66	\$17.80	\$430,938.00
<b>Total</b>		<b>\$2,429,781.62</b>		<b>\$2,041,145.10</b>
<sup>1</sup> Includes \$6.73 per square foot to amortize the cost of temporary improvements.				
<sup>2</sup> Includes a three month rent abatement effectively lowering the base rent from \$10.23 to \$7.67.				
Source: OAG analysis of lease agreements for lease #6627 and lease #6628.				

### Conclusion

In summary:

- DHS requested 26,000 square feet for a warehouse which was initially awarded to MGM Jefferson Corporation, which offered 24,210 square feet for property located on W. Jefferson St. in Springfield. DHS was moved to a 60,158 square foot warehouse located on South Grand Ave. East in Springfield. MGM Jefferson Corporation submitted a bid for a warehouse but was awarded an IT and Telecommunications Support Center.
- BCCS requested 44,000 square feet of office and warehouse space which was initially awarded to Climate Controlled Holdings, which offered 44,000 square feet, plus additional space if needed, for property located on South Grand Ave. East. BCCS was instead moved to the 24,210 square foot facility located on W. Jefferson St. Climate Controlled Holdings submitted a bid for an IT and Telecommunications Support Center but was awarded a warehouse.

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## ILLINOIS PROCUREMENT CODE REQUIREMENTS

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CMS violated a provision of the Illinois Procurement Code by awarding leases to vendors who were not qualified respondents for the leases awarded. Also by switching leases, CMS violated the principle of fair and equal treatment as other responders were not offered the opportunity to change their bids. Additionally, potential offerors were not able to submit bids based on the new requirements.

### Illinois Procurement Code

The Illinois Procurement Code Article 40 pertains specifically to real property and capital improvement leases. One section deals with the responses received from offering vendors:

*Response. The request for information response shall consist of written information sufficient to show that the respondent can meet minimum criteria set forth in the request. State purchasing officers may enter into discussions with respondents for the purpose of clarifying State needs and the information supplied by the respondents. On the basis of the information supplied and discussions, if any, a State purchasing officer shall make a written determination identifying the responses that meet the minimum criteria set forth in the request for information. **Negotiations shall be entered into with all qualified respondents for the purpose of securing a lease that is in the best interest of the State.** A written report of the negotiations shall be retained in the lease files and shall include the reasons for the final selection... (30 ILCS 500/40-20(d)) [Emphasis Added]*

The DHS warehouse lease received four responses, all of which were deemed responsive. Site visits were conducted at all four locations and best and final offers were solicited. The best and lowest offer, submitted by MGM Jefferson Corporation, was selected for award. Up to this point, CMS had followed the provisions of the Procurement Code.

CMS then made the decision to switch leases, awarding the DHS warehouse to Climate Controlled Holdings. The vendor awarded the lease was not a qualified respondent under the Procurement Code as it had not submitted a response for the warehouse lease. Conversely, MGM Jefferson Corporation was awarded the BCCS IT and Telecommunications Support Center but was not a qualified respondent as it had submitted a response for the warehouse lease. **This was no fault of the vendors as the decision to switch leases was made by CMS.**

### Selection Criteria in the Request for Information

The solicitation document, called the Request for Information, for each lease contained language on the selection of the winning vendor. Offers were evaluated and awards selected based on the requirements set forth in the Request for Information. **These requirements were then changed.**

- “...the award will be made to the Responsive Offeror and most Responsible Offeror whose Offer best meets the specified criteria...” (RFI Section A.16)

- The “specified criteria” were listed in detail in a section called the Tenant Space Requirements. Changing the purposes of the leases changed the specified criteria. Offers were evaluated on the original specifications. It is unknown which offer would best meet criteria that had been changed.
- *“A responsive Offeror is one who submits an Offer that conforms in all material respects to the Request For Information...”* (RFI Section A.19.1)
  - The submitted offers conformed to the space requirements as stated in the original Requests for Information. The space requirements were then substantially changed after selecting offers for award.
- *“The State will determine whether the Offer meets the stated requirements. Minor differences or deviations that have negligible impact on the price or suitability of the supply or service to meet the State’s needs may be accepted or corrections allowed...”* (RFI Section A.19.1.10)
  - The submitted offers met the original stated requirements. However, as shown in Exhibit 2-5 below, changing the purposes of the leases created major differences in space compared to the original requirements.
- *“The Offers will be ranked in order of apparent lowest to highest TCO [Total Cost of Occupancy] for further review and evaluation by CMS.”* (RFI Section A.19.3.7)
  - Any cost ranking of offers became irrelevant once the purposes of the leases were changed. As shown later in Exhibit 2-7, the final agreed pricing in the leases was substantially different than what was submitted in the offers.
- *“CMS will perform a site evaluation for the top ranked Offers to determine the suitability of each site for the intended use as stated in the RFI. Specific criteria will be evaluated for each site to determine the most suitable site independent of the comparative analysis of the TCO...”* (RFI Section B.1.1)
  - CMS performed site evaluations to determine suitability for the intended use as stated in the Request for Information. CMS then changed the intended use after selecting offers for award.

### **Differences in Space Requirements**

When CMS decided to switch the leases, it was not simply switching one warehouse for another warehouse. Exhibit 2-5 compares the tenant space requirements included in each of the lease procurements and illustrates how different the space requirements were. The DHS warehouse RFI specified 1 office and 3 workstations compared to 17 offices and 138 workstations in the BCCS RFI. Warehouse space accounted for 96 percent of the space in the DHS warehouse RFI compared to only 34 percent of the space in the BCCS RFI. The space requirements were significantly different.

Exhibit 2-5 COMPARISON OF TENANT SPACE REQUIREMENTS		
Description	DHS Warehouse RFI #6628	BCCS IT and Telecommunications Support Center RFI #6627
Personnel space – offices	150 sq. ft. (1 office)	2,550 sq. ft. (17 offices)
Personnel space – workstations	192 sq. ft. (3 workstations)	8,832 sq. ft. (138 workstations)
Personnel space – open space	200 sq. ft.	8,700 sq. ft.
Common office space (restrooms, break rooms, conference rooms, etc.)	458 sq. ft.	4,218 sq. ft.
Other storage space (supply rooms, PC repair room)	-	4,700 sq. ft.
Warehouse space	25,000 sq. ft.	15,000 sq. ft.
<b>Total</b>	26,000 sq. ft.	44,000 sq. ft.

Source: OAG analysis of tenant space requirements in the RFI.

### Discussions with Other Responders

When CMS decided to switch the leases, officials did not give other responders the opportunity to change their bids to meet the new lease requirements. The Illinois Procurement Code, in a section that applies to competitive sealed proposals, comments on discussions with responsible offerors and revising offers. Similar discussions are allowed in lease procurements.

*Those offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Revisions may be permitted after submission and before award for the purpose of obtaining best and final offers. In conducting discussions there shall be no disclosure of any information derived from proposals submitted by competing offerors. If information is disclosed to any offeror, it shall be provided to all competing offerors. (30 ILCS 500/20-15(f))*

While this section does not specifically apply to real property lease procurements, the concepts of transparency, fair competition, and fair and equal treatment are basic principles of public procurement.

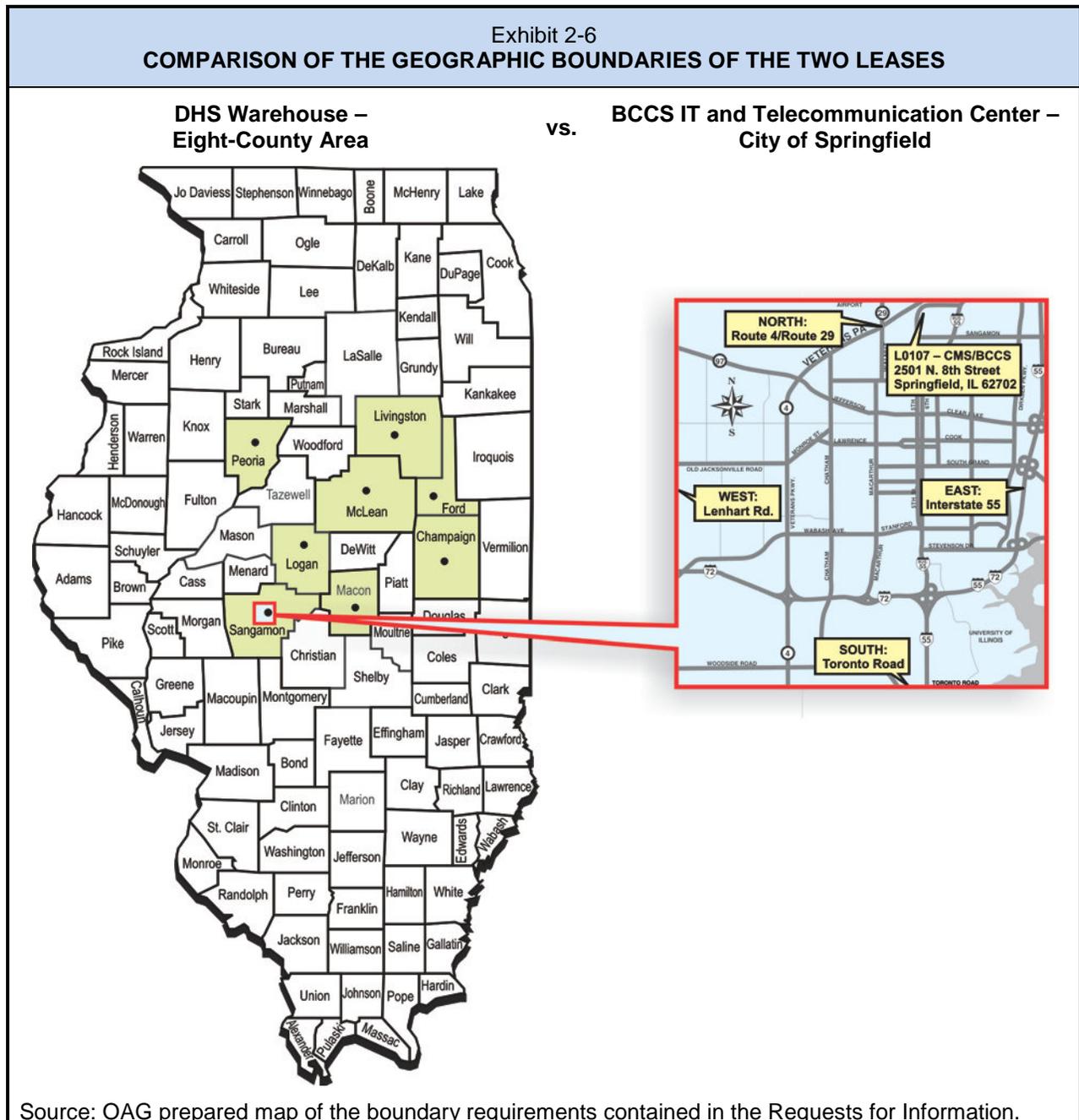
### Other Potential Offerors

By not rebidding the DHS warehouse lease or the BCCS IT and Telecommunications Support Center lease, CMS may have excluded potential bidders who were not afforded the opportunity to bid on the new space requirements.

- The initial DHS Warehouse RFI requested space totaling 26,000 square feet. The final lease agreement was for 60,158 square feet.

- The initial BCCS RFI requested space totaling 44,000 square feet. The final lease agreement was for 24,210 square feet.

In addition, the two leases covered different geographic areas. The BCCS IT and Telecommunications Support Center was to be located within the city of Springfield while the DHS warehouse RFI asked for a location in an eight-county area. Exhibit 2-6 compares the geographic boundaries of the two leases as contained in the requests for information. By changing the space requirements and then switching the DHS warehouse lease to a building in Springfield, CMS may have limited potential bidders. It is unknown if there were other prospective bidders that may have bid on the new space requirements.



In an email from November 2015 discussing different lease opportunities, the owner of MGM Jefferson Corporation noted that he did not bid on the BCCS IT and Telecommunications Support Center because his building was not big enough without adding an extension on his existing building at an enormous cost. This was the lease MGM Jefferson Corporation ended up receiving after the space requested was greatly reduced.

### **Chief Procurement Office Review**

The Chief Procurement Office (CPO) for General Services has procurement authority over real estate leases procured at CMS. State Purchasing Officers are appointed by Chief Procurement Officers and have the authority to approve or reject contracts of the purchasing agency. The General Services Standard Procurement Rules state: “*The SPO [State Purchasing Officer] will act primarily to review, authorize and approve State agency procurement activities and, to that end, exercises procurement authority with the assistance of the State agency procurement staff.*” (44 Ill. Adm. Code 1.1005(e))

We requested documentation of the State Purchasing Officer’s review of the two leases. The only documentation provided were emails from the State Purchasing Officer to CMS stating “done” in reference to the publication of notices to the Illinois Procurement Bulletin. No other documentation of the State Purchasing Officer’s review and approval of the leases was provided.

### **CMS and CPO Justification for Switching Leases**

CMS and the Chief Procurement Office for General Services have characterized the switch of the leases as substituting using agencies. The CMS Lease Administrator said that technically, CMS is the agency leasing the property and it is not obligated to identify a user agency although it still does.

The State Purchasing Officer responsible for reviewing the lease said the standard lease language allows for a change in using agency:

*Lessee may substitute using agencies in the Premises upon thirty (30) days’ written notice to the Lessor.* (Section 4.02 of the standard lease)

However, the above section would only apply once the lease was executed. The switching of the leases occurred prior to signing the leases. Secondly, and more importantly, **the switch was not a simple substituting of using agencies. Not only were the agencies changed, the purposes of the leases were changed, the structural layouts were changed, the tenant space requirements were changed, and the prices offered were changed.**

Exhibit 2-7 shows the differences in the prices offered by both Climate Controlled Holdings and MGM Jefferson Corporation in the original offers compared to the prices in the final leases. The prices increased for one and decreased for the other. The exhibit also shows the difference in total space. The DHS warehouse went from 24,210 square feet to 60,158 square feet whereas the BCCS IT and Telecommunications Support Center went from 44,000 square feet to 24,210 square feet. MGM Jefferson Corporation incurred \$702,570 in costs for temporary improvements needed to meet the new space requirements for the IT and

Telecommunication Support Center. These improvements are paid for by the State and were to be amortized over a five-year period.

Exhibit 2-7 PRICE COMPARISON BETWEEN INITIAL OFFER AND FINAL LEASE		
<i>Prices were substantially changed from the initial offer to the final lease after CMS changed the purposes of the leases and the space requirements.</i>		
	Lease #6627	
	Initial Offer BCCS IT and Telecommunications Support Center (44,000 sq. ft.)	Final Lease DHS Warehouse (60,158 sq. ft.)
<b>Climate Controlled Holdings</b>		
Year 1	\$18.45/sq. ft.	\$7.95/sq. ft.
Year 2	\$18.45/sq. ft.	\$7.95/sq. ft.
Year 3	\$19.00/sq. ft.	\$8.11/sq. ft.
Year 4	\$19.00/sq. ft.	\$8.11/sq. ft.
Year 5	\$19.00/sq. ft.	\$8.27/sq. ft.
Total 5-year payments	\$4,131,600.00	\$2,429,781.62
	Lease #6628	
	Initial Offer DHS Warehouse (24,210 sq. ft.)	Final Lease BCCS IT and Telecommunications Support Center (24,210 sq. ft.)
<b>MGM Jefferson Corporation</b>		
Year 1	\$7.35/sq. ft.	\$14.40/sq. ft. <sup>1 2</sup>
Year 2	\$7.50/sq. ft.	\$17.16/sq. ft. <sup>1</sup>
Year 3	\$7.65/sq. ft.	\$17.37/sq. ft. <sup>1</sup>
Year 4	\$7.80/sq. ft.	\$17.58/sq. ft. <sup>1</sup>
Year 5	\$7.96/sq. ft.	\$17.80/sq. ft. <sup>1</sup>
Total 5-year payments	\$926,274.60	\$2,041,145.10
<sup>1</sup> Price includes \$6.73 per square foot to amortize temporary improvements totaling \$702,570 made by the lessor to meet the new space requirements. <sup>2</sup> Includes a three month rent abatement effectively lowering the base rent from \$10.23 to \$7.67. Source: OAG analysis of initial offers and final leases.		

### Conclusion

It appeared that the decision to switch the leases was done with the intent of finding the best fit for the agencies as well as protecting both prospective landlords from loss of time, effort, and monies already expended. However, switching the leases violated a provision of the Illinois Procurement Code by awarding leases to vendors who were not qualified respondents for the leases awarded and also violated the principle of fair and equal treatment as other responders were not offered the opportunity to change their bids. CMS made the decision to switch leases

and the Chief Procurement Office for General Services documented its review and approval by publishing the award notice.

During the audit, we spoke to multiple officials from different agencies including CMS, DHS, the Procurement Policy Board, the Chief Procurement Office for General Services, and the Executive Ethics Commission. No one we spoke to could recall any other instances where the purposes of the leases were switched between two different procurements and the using agencies changed as was done during these procurements.

<b>AWARDING LEASES TO QUALIFIED RESPONDENTS</b>	
<b>RECOMMENDATION NUMBER</b>  <b>1</b>	<i>The Department of Central Management Services and the Chief Procurement Office for General Services should put procedures in place to ensure that leases are awarded only to qualified respondents who submitted bids meeting the original lease specifications.</i>
<b>CMS RESPONSE</b>	<p>The Department shares the concern that leases only be awarded to qualified respondents, and is working to evaluate its procedures to balance the flexibility afforded by the procurement code with the goal of providing equal and maximum opportunity for all bidders.</p> <p>As noted, agency needs can evolve during the lengthy procurement process, as they did here with the formation of a new agency and the expanding space needs of another. In this instance, CMS considered several factors - the history of the procurements, the state of the real estate market, the impact of the budget impasse - in determining that the adjustment to the agency qualifications was within its authority and in the best interest of the state.</p> <p>CMS recognizes the change in construction plans was more pronounced than other procurements, but would also note that this procurement did not preclude responsive bidders and each lease was awarded to a qualified bidder of each respective RFI. It's also important to note that not one protest was received.</p> <p>CMS acknowledges its current procurement documents do not adequately convey the flexible nature of leasing procurement and so, in addition to a commitment to reviewing its procedures, CMS is also currently overhauling its leasing documentation to address this issue.</p>
<b>CPO RESPONSE</b>	<p>The Chief Procurement Office for General Services disagrees with the finding that the leasing procurements that are the subject of the audit were conducted in violation of the Illinois Procurement Code.</p> <p>All leases of real property are procured in accordance with Article 40 of the Code. The Code recognizes that the procurement of leased space cannot be accomplished using an Invitation for Bid or a Request for Proposal. Invitation for Bid provides no flexibility for the State to accept a solution that does not meet exact specifications. Request for Proposal allows for negotiation but not deviation from the goods or</p>

<p><b>CPO RESPONSE (continued)</b></p>	<p>services described in the solicitation. A Request for Information allows flexibility. Article 40 requires the RFI to include <i>the proposed uses of the property</i> and <i>a general description of the configuration desired</i>. The word specification does not appear in the Article at all.</p> <p>A State Purchasing Officer is required to review and approve or reject procurement activity at four distinct points in a procurement. The agency conducting the procurement must present their work to the SPO for review at these points:</p> <p style="padding-left: 40px;">Step 1: review and approval or denial of the procurement method  Step 2: review of solicitation document and approval or denial for publication  Step 3: review and application of determination of award  Step 4: review and approval or denial of contract execution</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p><b><u>Auditor Comment:</u></b>  <i>As noted in the audit report, the State Purchasing Officer responsible for reviewing the leases could not provide documentation of review other than emails to CMS stating “done” in reference to the publication of notices to the Illinois Procurement Bulletin.</i></p> </div> <p>The role of the SPO begins at Step 1, where the SPO is required to determine if the agency’s desired procurement approach is appropriate. The SPO does not become involved in the agency’s determination of need.</p> <p>At Step 2 the SPO reviews the RFI and approves posting the RFI to the IPB if the RFI contains the Code-mandated requirements. The SPO ensures that the IPB posting reflects the solicitation documents and that the IPB posting requirements, such as the mandatory minimum fourteen day posting period, are met.</p> <p>The Code requires the RFI to include</p> <p style="padding-left: 40px;">(1) <i>the type of property to be leased;</i>  (2) <i>the proposed uses of the property;</i>  (3) <i>the duration of the lease;</i>  (4) <i>the preferred location of the property; and</i>  (5) <i>a general description of the configuration desired.</i></p> <p>The RFI for L6627 called for (1) 44,000 square feet of office/climate controlled warehouse, for (2) the proposed occupancy of CMS BCCS, for (3) five years with a five-year renewal option, (4) located within certain boundaries in the City of Springfield and with (5) the general description included in the document entitled <i>Agency Programmed Requirements</i>, which is an attachment to the IPB posting. The State also sought an expansion option of up to 100% of the rentable square footage of the building.</p>
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**CPO RESPONSE  
(continued)**

The RFI for L6628 called for (1) 26,000 square feet of climate controlled warehouse space for (2) the proposed occupancy of the Department of Human Services (3) for five years with a five-year renewal option (4) located within the geographic boundaries of eight Central Illinois counties with (5) the general description as described in the preceding paragraph and this RFI also sought the expansion option.

Step 3 requires SPO review of the offers submitted and the determination that the award recommendation go to the *lowest response by price*. Both procurements were awarded to the offeror that met this criterion. The Auditor General agrees and states so on page 26 of the report. The CPO-GS recognizes that the SPO should have recorded award determination language for the file as is required by Code.

**Auditor Comment:**

*While the lowest response by price was initially selected, as shown in Exhibit 2-7, after the purposes of the leases were changed, prices were substantially changed for both leases compared to the initial offer. Officials did not give other responders the opportunity to change their bids to meet the new lease requirements. So it is unknown if the lowest priced offer was ultimately selected.*

At Step 4 the SPO reviews and approves or denies execution of the final lease document. The SPO checks to make sure the lease reflects the offer that was awarded.

L6627 is for 44,000 square feet plus 16,158 of the exercised expansion option. The occupancy of the building has changed from CMS BCCS to DHS. The term of the lease is five years with a five-year renewal option. The building is within the geographic boundaries listed in the RFI. Only the proposed occupancy has changed.

L6628 is for 24,210 square feet. The occupancy of the building has changed from DHS to CMS. The term of the lease is five years with a five-year renewal option. The building is within the geographic boundaries listed in the RFI. Only the proposed occupancy has changed.

**Auditor Comment:**

*Not only was the proposed occupancy changed, the purposes of the leases were changed, the structural layouts were changed, the tenant space requirements were changed, and the prices offered were changed. Exhibit 2-5 shows the significant differences in the tenant space requirements.*

Neither the Code nor the Rules define proposed so the plain meaning is applicable in statutory interpretation. Merriam-Webster defines the word propose as *to set before the mind (as for discussion, imitation, or*

<p><b>CPO RESPONSE (continued)</b></p>	<p><i>action) or to set forth for acceptance or rejection. The deliberate use of the word “proposed” in 40-20 (b)(2) suggests that the uses set forth in the procurement are not definite and may be subject to change.</i></p> <p>The CPO-GS sought the advice of the General Counsel for the Executive Ethics Commission and our procurement attorney, who both opined that neither of these procurements was conducted in an illegal manner. It is also important to note also that no vendors believed they were harmed. There was no protest of either award.</p> <div data-bbox="597 520 1398 722" style="border: 1px solid black; padding: 5px;"> <p><b><u>Auditor Comment:</u></b>  <i>Auditors were not provided any documentation that opined on the legality of the procurement. It is unclear if the advice sought by the CPO occurred at the time of the procurement or after the leases were already in place.</i></p> </div>
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## Chapter Three

# STATUS OF AUDIT DETERMINATIONS

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## CHAPTER CONCLUSIONS

To justify the need for a new warehouse, the Department of Human Services (DHS) cited the poor conditions at Dwight Correctional Center and the need to consolidate files located at Family Community Resource Centers. DHS stated “*This lease will end up saving a great deal of money as the warehouse space will be considerably less expensive than housing the files in the local offices.*” However, **DHS could not provide documentation to show an analysis had been conducted to demonstrate any cost savings.**

The amount of space requested in the DHS space request was insufficient to accommodate the files being stored at Dwight. That is without even considering any additional files that would be moved from other locations. DHS relied on advice from the Department of Central Management Services (CMS) in developing the space request but, as the agency submitting the space request, DHS is ultimately responsible for submitting an accurate request that fully accommodates its needs.

CMS did not consider renovating space at Dwight Correctional Center. No cost projections were made to consider the costs of renovating versus leasing new space. CMS did not consider Dwight as functional enough to do an analysis on renovation.

CMS did consider the availability of other State-owned and leased space before the decision to proceed with the DHS warehouse space request and concluded that no space was available. CMS does not typically consider shuttered properties, such as prisons, because they are not acceptable for occupancy due to the same issues seen at Dwight.

CMS did not conduct an analysis of the cost-benefit of purchasing instead of leasing the property at 2410 South Grand Ave. East. Officials from CMS and the Capital Development Board signed a certification attesting that the lease was in the best interest of the State considering, among other items, “...*the cost-benefits of purchasing or constructing new space.*” However, it is impossible to know whether the lease is in the best interest of the State if a cost-benefit analysis of purchasing versus leasing is not performed.

DHS has not conducted a comprehensive cost-benefit analysis comparing the costs of digitizing records as compared to maintaining records in hard copy form. The analysis DHS provided was completed in May 2017 after the warehouse lease was awarded. The analysis contained two estimates that had substantially different total costs, did not include sufficient support for how the estimates were determined, and did not address any of the points in the audit resolution.

The Procurement Policy Board (Board) has the authority to review leases and object to leases. However, the DHS warehouse lease was not discussed or voted on at its October 2016 meeting. Because the Board did not object to the lease, it became effective at the end of the Board’s 30-day review period. The Board has no conflict of interest policies, but it does complete annual ethics training and has an unofficial practice of recusal in situations where there are conflicts of interest.

CMS generally followed its leasing procedures in preparing the leases for publication. However, for one of the leases, other than posting to the Procurement Bulletin, no additional outreach was done to increase awareness of the lease to ensure adequate competition. In addition, the geographic boundaries may have been unduly restrictive.

CMS officials said that they were unaware of any sharing of confidential information. However, emails indicated that the CMS Leasing Representative did share pricing information between the bidders selected for the awards for the two leases. This information was shared after CMS made the decision to switch the leases but prior to the final award and was done to facilitate negotiations on final pricing for the altered leases.

Based on an examination of the lease files and other emails, as well as interviews with those involved, we found no evidence that relationships played a role in the warehouse lease.

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## INTRODUCTION

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House Joint Resolution Number 63 asked the Auditor General to conduct a performance audit of the State’s decision to enter into a lease for property at 2410 South Grand Ave. East in Springfield. The audit resolution contained 11 determinations. The following sections discuss each of the audit determinations.

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## SPACE REQUEST AND CONDITION OF EXISTING SPACE

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### **Audit Determination #1**

*The justification for the space request by the Department of Human Services (DHS), including the location and condition of the premises where the records were previously stored and the functions were previously performed ("existing space").*

DHS submitted a space request in September 2015 requesting new space for file storage in Central Illinois. The plan was to move all of the files stored at Dwight Correctional Center as well as other files located at various Family Community Resource Centers (FCRC’s). The space request was approved by CMS on September 15, 2015.

### **Justification for the Space Request**

The CMS space request form contains a specific section for the requesting agency to provide justification for the space request. The space request noted:

*Due to the horrible conditions of the present storage area at the Dwight Correctional Facility, we are requesting to find new space that will allow us to consolidate the files we have in Dwight and the other files still located at our FCRC's. DHS spends a great deal of resources housing file cabinets in local offices.*

The space request asked the agency to identify any cost savings or cost avoidance associated with the request and to provide an economic justification:

*DHS will be able to save even more money by reducing the footprint of the local offices – space that is more expensive – in lieu of sending their filing cabinets to less expensive, warehouse type space. DHS will incur one time costs associated with moving the cabinets to the new location and the installation of phone/data lines.*

*This lease will end up saving a great deal of money as the warehouse space will be considerably less expensive than housing the files in the local offices.*

We asked DHS if there was any analysis showing the cost savings that resulted from moving file cabinets from the local offices. DHS officials noted that square footage at local offices cost more than square footage in a warehouse space. However, **DHS could not provide documentation to show an analysis had been conducted to demonstrate any cost savings.**

### **Condition of the Existing Space**

Beginning in January 2014, DHS occupied buildings at the former Dwight Correctional Center to store files. The initial plan was to occupy two buildings but expanded to four buildings because additional space was needed. According to a CMS official, the two additional buildings were not intended as storage space.

Prior to the space request, an August 18, 2015 memo from DHS to CMS noted several issues with the condition of the Dwight facility:

- The presence of mold in three of the buildings;
- The air conditioning in the Jane Adams Hall building was not working which contributed to the mold issue;
- The Jane Adams Hall building had water issues in the basement which also was exuding a very offensive odor;
- Pest control was an issue as an employee had been stung by a wasp on two separate occasions; and
- The roof in the warehouse was leaking water onto filing cabinets and pooling on the floors.

In addition, there were issues with the floors in the Jane Adams Hall building not being able to support the weight of the filing cabinets which resulted in a risk of the floor collapsing. Files had to be moved out and others redistributed to alleviate the problem.

### Issues with the Space Request

Exhibit 3-1 shows the amount of space being used at Dwight compared to the space requested and the space in the final lease. The amount of space requested in the DHS space request was insufficient to accommodate the files being stored at Dwight. That is without even considering any additional files that would be moved from other locations. The total space requested was 26,292 square feet (which included 742 square feet for personnel space, 550 square feet of common office space, and 25,000 square feet for warehouse storage).

Exhibit 3-1 SPACE USED AT DWIGHT VS SPACE REQUESTED BY DHS		
Source	Estimate of Space Being Used	Space Requested
September 2015 email	41,905 sq. ft.	
September 2015 space request		26,292 sq. ft.
July 2016 email	36,819 sq. ft.	
		Space in Final Lease
DHS warehouse lease		60,158 sq. ft.
Source: OAG analysis of lease documentation.		

Prior to submitting the space request, CMS provided DHS the approximate square footage DHS was occupying at Dwight which totaled 41,905 square feet. A DHS official asked if they should request 20,000 square feet in the space request. A CMS official replied that 25,000 square feet would be closer to what was needed. We asked both DHS and CMS why only 25,000 square feet was requested when over 41,000 square feet was being used:

- A DHS official said the thought was that Dwight had a lot of wasted space because of how the rooms were broken up so they relied on CMS’ opinion.
- A CMS official said it was due to DHS digitizing files and the plan to go more vertical with the file storage to take up less square footage.

In July 2016, when it was decided to switch the lease locations, one of the justifications given for the switch was that DHS was convinced that the space selected for the DHS warehouse “...will not even hold all of the current Dwight files, much less provide any room to grow.” On July 13, 2016, CMS reassessed the square footage at Dwight and arrived at a total of 36,819 square feet. **This was less than the estimated 41,905 square feet from September 2015 that the space request was based on.**

To justify that the initial space request was no longer sufficient, a DHS official stated the following in an August 3, 2016 email to the CMS Lease Administrator: “Originally we requested 26,000 sq ft of file space in our RFI [Request for Information]. Since that request we have moved more files into Dwight which make(s) the total space we are using at Dwight to over 37,000 square feet.” If in fact more files had been moved into Dwight, the amount of space used was actually less than the estimate from September 2015 on which the space request was based.

As the agency submitting the space request, DHS is ultimately responsible for submitting an accurate request that fully accommodates its needs. The signature page of the space request states the following: “This agency has thoroughly reviewed our operational and programmatic needs and they are accurately set forth in this document including projected changes to the

*Agency’s space need at this location.”* Had DHS initially requested more space, enough to accommodate the files at Dwight plus additional files from other locations, many of the complications that arose later in the procurement might have been avoided.

DHS stated the finding may be attributed to inadequate calculations for bulk warehouse space on CMS templates and a lack of DHS policy addressing a predetermination of space needs prior to submission to CMS.

<b>ASSESSMENT OF SPACE NEEDS</b>	
<b>RECOMMENDATION NUMBER</b>  <b>2</b>	<i>The Department of Human Services should develop a policy that requires the Department conduct a thorough review of its space needs prior to submitting a space request to CMS to ensure that the amount of space requested is adequate.</i>
<b>DHS RESPONSE</b>	The Department accepts the recommendation. We agree that this may be corrected by conducting a more detailed assessment of each space need and working more closely with CMS prior to accepting their final recommendation. The DHS Office of Business Services will draft and implement a policy that will ensure proper reviews and determinations of agency space needs are conducted prior to and in conjunction with CMS space assessments and recommendations.

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## RENOVATING EXISTING SPACE

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### **Audit Determination #2**

*Whether the Department of Central Management Services (CMS) or other appropriate State agencies considered renovating the existing space and, if so, what projections were made for the cost of renovating the existing space.*

CMS did not consider renovating space at Dwight Correctional Center. No cost projections were made to consider the costs of renovating versus leasing new space.

In October 2013, the Department of Corrections requested to transfer the Dwight Correctional Center property to CMS as surplus property. Until such time as ownership of the property was formally transferred, CMS entered into an interagency agreement with the Department of Corrections effective July 1, 2014. The agreement specified that CMS shall assume the fiscal responsibility for all costs associated with the operation of Dwight. CMS provided operational costs incurred for maintaining Dwight Correctional Center (see Exhibit 3-2). Operational costs in FY18 were lower compared to FY16 and FY17 when DHS was using the facility. A CMS official said that the adjustment category is due to a true up of actual costs matched against estimates used the previous year.

Exhibit 3-2 OPERATIONAL COSTS FOR DWIGHT CORRECTIONAL CENTER				
Category	FY15	FY16	FY17	FY18
Building repair & maintenance	\$ 135,470	\$ 83,712	\$ 6,551	\$ 201
Utilities	-	130,115	127,624	87,986
Security guard services	-	83,095	71,831	70,159
Lawn maintenance	-	30,365	31,420	41,886
Snow removal	9,761	8,794	412	3,346
Pest control	-	3,488	3,523	3,488
Equipment	-	3,115	4,240	4,208
Waste pickup	-	(2,273)	8,502	673
Commodities	-	156	695	45
Adjustments	-	-	118,674	(63,402)
<b>Total</b>	<b>\$ 145,231</b>	<b>\$ 340,567</b>	<b>\$ 373,472</b>	<b>\$ 148,590</b>

Source: CMS facilities management revolving fund rate sheets.

CMS did not consider Dwight as functional enough to do an analysis on renovation. A timeline of the process that CMS provided noted the following:

*The Dwight location had deteriorated to the point that it was no longer functional. Files were being damaged by moisture and temperature extremes, and employees were exposed to mold and other potential health risks. Due to the age of the buildings and the surplus property status of the site, it made no sense to expend capital dollars for roof repairs, mold remediation, or other work.*

## CONSIDERATION OF OTHER STATE-OWNED OR LEASED SPACE

### Audit Determination #3

*Whether CMS considered the availability of other State-owned or leased space before the decision to enter into a new lease was made, including what specific State-owned or leased properties were reviewed prior to making the decision to enter into a new lease.*

CMS did consider the availability of other State-owned and leased space before the decision to proceed with the DHS warehouse space request and concluded that no space was available. A check of State-owned and leased space is required by State statute, administrative rules, and CMS policy:

**State statute:** “...no lease for more than 10,000 square feet of space shall be executed unless the Director [of CMS], in consultation with the Executive Director of the Capital Development Board, has certified that leasing is in the best interest of the State, considering programmatic requirements, availability of vacant State-owned space...” (20 ILCS 405/405-300(f))

**Administrative rules:** “Leased space shall be acquired only when satisfactory State-owned or controlled space is not available. Alterations and improvements

*to leased space shall be avoided or minimized to the extent practical.” (44 Ill. Adm. Code 5000.200(c))*

**CMS policy:** *“Lease Administrator completes a Vacant Space Due Diligence process and prepares the related memo for the file.”*

The check for available space occurs early in the process and is documented in the Vacant Space Due Diligence Memo. The DHS space request was dated September 11, 2015. The Vacant Space Due Diligence Memo was dated just a few days later on September 15, 2015.

The search criteria used for the DHS warehouse lease was *“All existing warehouse, storage, or “other” space of at least 26,000 square feet located in the following counties: Champaign, Ford, Livingston, Logan, Macon, McLean, Peoria and Sangamon.”* Exhibit 3-3 shows the space that was reviewed that met the search criteria. CMS determined that there was no available space at either of the two leased facilities. CMS also concluded that no State-owned facility met the search criteria.

Exhibit 3-3 STATE-OWNED OR LEASED PROPERTY REVIEWED September 2015				
Search Criteria: <i>All existing warehouse, storage, or “other” space of at least 26,000 square feet located in the following counties: Champaign, Ford, Livingston, Logan, Macon, McLean, Peoria and Sangamon.</i>				
Property	Location	Using Agencies	Current Use	Square Footage
Lease #2766	5000-5020 Industrial Dr. Springfield	Human Services Children and Family Services	Office, warehouse, mail room, print shop	138,335
Lease #6023	1 Langhorne Bond Dr. Springfield	Transportation State Police	Office and aircraft hangar	436,906
CMS concluded that there was no available space at either leased facility and that no State-owned facility met the search criteria.				
Source: CMS lease file – Vacant Space Due Diligence Memo.				

We examined the September 2015 CMS Lease Inventory Report and identified two additional properties that would have met the search criteria but were not listed as being reviewed by CMS:

- ***Lease #5821 at 2946 Old Rochester Road, Springfield. This property consisted of 81,300 square feet of warehouse space and was occupied by Healthcare and Family Services, Public Health, and Lottery.*** CMS stated that lease #5821 was inadvertently omitted from the space check for the DHS warehouse. Lease #5821 was, however, included in the vacant space analysis for lease #6627 (the CMS Bureau of Communication and Computer Services (BCCS) IT (Information Technology) and Telecommunications Support Center) which was also conducted in September 2015. The space check for lease #6627 noted that no space was available at that facility.

- ***Lease #4467 at 319 E. Jefferson St., Springfield. This property consisted of 57,000 square feet of storage and office space and was occupied by Human Services.*** CMS stated that this facility was not included in the vacant space check because the lease was close to being terminated. The facility was a former parking garage that was in disrepair and scheduled to be replaced. The new lease replacing lease #4467 was published three months later in December 2015.

We also asked if there were any other excess or surplus State property that was considered. The CMS Lease Administrator stated that they do a review of the Annual Real Property Utilization Report database but typically do not consider shuttered properties, such as prisons, because they are not acceptable for occupancy due to the same issues seen at Dwight.

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## ANALYSIS OF LEASING VS PURCHASING

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### Audit Determination #4

*Whether CMS conducted an analysis of the cost-benefit of purchasing instead of leasing the property at 2410 South Grand Ave. East, Springfield, Illinois, including costs associated with renovating and maintaining the property.*

CMS did not conduct an analysis of the cost-benefit of purchasing instead of leasing the property at 2410 South Grand Ave. East. The only analysis conducted was a fiscal analysis of bids that CMS performs for every lease.

The Civil Administrative Code states:

*...no lease for more than 10,000 square feet of space shall be executed unless the Director [of CMS], in consultation with the Executive Director of the Capital Development Board, has certified that leasing is in the best interest of the State, considering programmatic requirements, availability of vacant State-owned space, **the cost-benefits of purchasing or constructing new space**, and other criteria as he or she shall determine. (20 ILCS 405/405-300(f)) [Emphasis Added]*

The consultation between CMS and the Capital Development Board (CDB) is documented by a certification in the lease file. This one page form, called the CDB Certification Form, is signed by both the Capital Development Board and by CMS. By signing, officials attest that they have consulted and that the lease is in the best interests of the State. The form was signed for the warehouse lease on October 31, 2016, after the award announcement but prior to the signing of the lease.

We asked CMS if there was any further documentation that CMS considered the cost-benefits of purchasing or constructing new space other than the CDB Certification Form in the case file. CMS responded by providing the fiscal analysis that was included in the bid review and is conducted for every lease. It shows that the bid for leased space would cost an estimated \$9,255,213 over a ten-year period; the only other bid, which would have required new construction, would have cost an estimated \$15,604,413 over the same period. This analysis is

just an analysis of the two bids and was done when the space was still intended as an IT and Telecommunications Support Center for BCCS. It does not include an analysis of purchasing new space.

CMS said that purchasing was not considered for the warehouse lease because any purchase of a building which requires improvements with public funds would require an opinion from the Illinois Attorney General. CMS said this would have taken a significant amount of time, which DHS did not have due to the deteriorating conditions at Dwight. However, it should be noted that from the time DHS submitted a space request (September 2015) to the time it began moving files into the new warehouse (February 2017) was approximately 17 months. CMS did note that the lease contains an option to purchase, if funds become available; however, officials said such a purchase would require legislative appropriation because most agencies do not have funds on hand that are not already appropriated for other purposes.

By signing the CDB Certification Form, officials from the Capital Development Board and CMS are attesting that they have consulted and that the lease “...is in the best interest of the State, considering programmatic requirements, availability of vacant state-owned space, the cost-benefits of purchasing or constructing new space, and other applicable criteria.” However, it is impossible to know whether the lease is in the best interest of the State if a cost-benefit analysis of purchasing versus leasing is not performed.

<b>COST-BENEFIT ANALYSIS</b>	
<b>RECOMMENDATION NUMBER  3</b>	<i>The Department of Central Management Services should update its Capital Development Board Certification Form or its Lease Document Checklist to ensure that an analysis of the cost-benefits of purchasing or constructing new space is performed and documented.</i>
<b>CMS RESPONSE</b>	CMS agrees that an analysis should be done to ensure that the cost vs. benefits of a lease outweigh purchasing or constructing new space. CMS has historically relied on the Capital Development Board to certify as to constructing versus leasing, and intends to work with the CDB to better incorporate and accurately reflect CDB's analysis in CMS's leasing process. In addition, CMS will formalize and document the analysis of leasing versus purchases that historically took place informally, despite the absence of appropriation for real estate purchases. Of note, CMS proposed legislation on February 15, 2018 (SB3143) that will require CMS to annually analyze all leases that contain a purchase option and have completed the third year of the lease and report its findings to the General Assembly. This analysis will recommend whether it is in the State's best interest to exercise the purchase option or to seek to simply renew the lease. This will allow the General Assembly an opportunity to appropriate funding for purchase. In the event the proposed legislation does not pass, CMS plans to incorporate this type of analysis into its Bureau of Property Management (BoPM) procedures. BoPM is engaged in an active procurement for real estate advisory service that would include such analysis.

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**ANALYSIS OF DIGITIZING VS STORING HARD COPY RECORDS**

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**Audit Determination #5**

*Whether DHS or any other appropriate State agency has conducted a cost-benefit analysis comparing the costs of digitizing records as compared to maintaining records in hard copy form, including the costs of storage, access, and travel, if any, to retrieve hard copy records for various official purposes, as well as the security risks of confidential records in one form as compared to the other.*

DHS has not conducted a comprehensive cost-benefit analysis comparing the costs of digitizing records as compared to maintaining records in hard copy form. The analysis DHS provided was completed in May 2017 after the warehouse lease was awarded. The analysis contained two estimates that had substantially different total costs, did not include sufficient support for how the estimates were determined, and did not address any of the points in the audit resolution.

DHS provided a one-page analysis for the cost of digitizing records at Dwight Correctional Center. The analysis showed a list of the total number of filing cabinets and boxes at Dwight, and also converts those amounts into cabinet paper and box paper. It then determines the cost to digitize those files (see Exhibit 3-4). The analysis did not include any of the points asked for in the audit resolution. The analysis had two different cost estimates to digitize records: \$11.98 million and \$5.15 million. Each estimate was based on different assumptions:

- The first estimate was based on the cost per page and used assumptions of 50,000 pages per cabinet and 2,000 pages per box.
- The second estimate was based on the cost per cabinet and used the assumption of five boxes per cabinet.

**The assumptions used in the two estimates conflict with each other.** Based on the first estimate’s assumption of 50,000 pages per cabinet and 2,000 pages per box, there would be 25 boxes per cabinet. However, the second estimate assumes five boxes per cabinet. Additionally, based on 2,000 pages per box in the first estimate and five boxes per cabinet in the second estimate, there would be 10,000 pages per cabinet as opposed to the 50,000 pages assumed in the first estimate.

Exhibit 3-4 <b>DHS COST ESTIMATE TO DIGITIZE RECORDS</b> Prepared May 2017		
<b><u>Files at Dwight Correctional Center</u></b>		
Number of file cabinets: 3,612 Number of boxes: 7,691		
<b>Estimate #1:</b>		
• Assumptions:	50,000 pages per file cabinet 2,000 pages per box	 This would equal 25 boxes per cabinet compared to the 5 boxes per cabinet in Estimate #2
• Digital image cost:	\$0.06 per page	
	<b><u>Number of Pages</u></b>	<b><u>Cost Estimate</u></b>
File cabinet paper:	180,600,000 pages	\$10,836,000
Box paper:	19,017,500 pages	\$1,141,050
Total:	199,617,500 pages	\$11,977,050
<b>Estimate #2:</b>		
• Assumptions	5 boxes equal 1 cabinet	
• Digital image cost:	\$1,000 per cabinet	
	<b><u>Number of Cabinets</u></b>	<b><u>Cost Estimate</u></b>
File cabinets:	3,612.0	\$3,612,000
Boxes:	1,538.2	\$1,538,200
Total:	5,150.2	\$5,150,200
Source: OAG analysis of DHS May 2017 digitization estimate.		

According to DHS officials the assumptions were based on online research and DHS' moving contractor's estimates of \$800 to \$1,000 per file cabinet. No other support for the estimates was provided.

DHS officials said that scanning was cost prohibitive, so scanning was not done for existing files at Dwight; however, scanning is being done currently on a going forward basis.

We asked CMS officials if they had done any analysis of the cost-benefit of digitizing records. CMS officials said they do not deal with digitizing records and this would be something an agency would be better suited to answer. Likewise, Department of Innovation and Technology (DoIT) officials we met with were not aware of any analysis being done.

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## **ROLE OF THE PROCUREMENT POLICY BOARD**

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### **Audit Determination #6**

*The role of the Procurement Policy Board ("Board") in reviewing the lease, including whether the Board has any conflict-of-interest procedures for members to recuse themselves because of personal, professional, or financial relationships.*

The Procurement Policy Board (Board) has the authority to review leases and object to leases. However, the DHS warehouse lease was not discussed or voted on at its October 2016 meeting. Because the Board did not object to the lease, it became effective at the end of the Board’s 30-day review period. The Board has no conflict of interest policies, but it does complete annual ethics training and has an unofficial practice of recusal in situations where there are conflicts of interest.

### **Board’s Authority**

The Illinois Procurement Code provides the Board the authority to review leases. Any lease of real property for 10,000 or more square feet or with annual rent payments of \$100,000 or more is sent to the Procurement Policy Board for review. The Board has 30 days to review the proposed lease. If the Board does not object in writing within 30 days, the proposed lease becomes effective (30 ILCS 500/40-20(e)).

The Board does not have to vote to approve a lease but only needs to vote when objecting to a lease. The Board does still, at times, vote to approve leases to expedite the effective date. In these instances, the Board issues a letter of no objection. Otherwise, if the Board does not vote to object, the leases become effective at the end of the 30-day review period.

### **Board’s Review of the DHS Warehouse Lease**

Notice of final award for the DHS warehouse lease was posted to the Illinois Procurement Bulletin on October 4, 2016, and information on the lease was provided to the Board for its review at the October 20, 2016 Board meeting. For each lease, the Board is provided the lease document, a summary of the lease prepared by CMS called the white paper, and a summary of the lease prepared by the Board’s staff.

The warehouse lease was a non-agenda item; Board members were provided information about the lease but it was not listed on the agenda. The term “non-agenda” item was a term used by the Board to describe leases that did not require Board action. At the time, only leases that required Board action were placed on the agenda. Most leases are put out for bid through the RFI process. However, the Procurement Code (30 ILCS 500/40-15(b)) allows other methods of procuring leases. These types of leases, which include renewals and extensions, were the types placed on the agenda. Since the warehouse lease was bid through the normal RFI process, it was a non-agenda item.

Non-agenda items typically are not discussed or voted on at the meetings; however, the Board is provided information on the leases and can still discuss leases that are non-agenda items if they wish. For the October 20, 2016 Board meeting, there were three leases on the agenda and an additional four leases, including the warehouse lease, that were non-agenda items. None of the four non-agenda leases were discussed at the meeting. Since there was no discussion and no objection by the Board, the warehouse lease became effective at the end of the 30-day review period. The Board has since changed its policy and now lists all leases on the agenda.

The white paper summary of the lease, prepared by CMS, was misleading and did not explain the switching of leases. When we spoke to the Board members, three members said that, if they had known, they would have handled the lease differently or had different discussions regarding the lease. This issue is explained in further detail in Chapter Four.

### **Conflict of Interest Policies**

The Board does not have any conflict of interest policies for members. There is a conflict of interest section in the Board’s handbook for employees, but it does not apply to Board members.

Board members do go through annual ethics training, conducted by the Office of the Executive Inspector General. The training, which is done for appointees to State of Illinois Boards, contains a section that addresses conflicts of interest. The training section says, in part: *“In any instance where you believe you may have or appear to have a conflict of interest with respect to your membership on a state board or commission, it is your responsibility to immediately take steps to appropriately disclose the conflict and take action to remedy it.”*

While not directed in policy or statute, there has been an unofficial practice of Board members recusing themselves when having a conflict of interest, which two members have done in the past. Additionally, members must submit Economic Interest forms to the Secretary of State.

While we did not conduct an exhaustive search of other boards or survey other boards to determine if they have conflict of interest policies, we did note that the State Board of Education has a policy in place. The State Board of Education’s policy requires members to disclose instances where a member has or may have a conflict of interest. The policy also includes specific steps to take if it is determined that a conflict of interest exists.

<b>PROCUREMENT POLICY BOARD CONFLICT OF INTEREST POLICY</b>	
<b>RECOMMENDATION NUMBER</b>  <b>4</b>	<i>The Procurement Policy Board should consider developing a written conflict of interest policy for Board members to clarify instances where a conflict may exist and establish steps to take when a conflict does exist.</i>
<b>PROCUREMENT POLICY BOARD RESPONSE</b>	The Procurement Policy Board agree that it should develop a written conflict of interest policy for Board Members and plans to have a policy in place within the coming months.

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## ROLES OF PERSONS INVOLVED IN THE PROCUREMENT

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### Audit Determination #7

*Identification of the persons involved in the procurement, and their respective roles and responsibilities.*

The DHS warehouse procurement involved two different lease procurements and primarily involved six agencies:

- Central Management Services;
- The Department of Human Services;
- The Procurement Policy Board;
- The former CMS Bureau of Communication and Computer Services (BCCS) (now the Department of Innovation and Technology);
- The Chief Procurement Office for General Services (CPO); and
- The Executive Ethics Commission (EEC).

The following describes each agency’s roles and responsibilities in regards to lease #6627 and lease #6628. A listing of employees, their titles, and descriptions of their involvement with the leases can be found in Appendix C.

#### **Central Management Services**

CMS is the agency primarily responsible for real property leasing for the State. It oversees the process which initiates with a space request from an agency. CMS compiles the procurement documents and issues a Request for Information to solicit bids on the lease opportunity. CMS also receives the bids, negotiates with the vendors, and makes the award selection. The Director of CMS signs the final lease document. Those at CMS involved with lease #6627 and lease #6628 included the following:

- ***Acting Director.*** Provided final approval by signing the lease agreements.
- ***Deputy Director, Bureau of Property Management.*** As the head of the bureau responsible for leases, the Deputy Director approved the leases at various stages in the process.
- ***Lease Administrator.*** The Lease Administrator is the primary point person for leases at the agency. Duties included completing the space request approval form and checking for available space at other facilities. Also corresponded with the agencies and assisted

the Deputy Director in making the final determination regarding whether or not to proceed with procurements.

- **Leasing Representative.** Responsible for increasing awareness of the RFI and encouraging potential proposers to submit offers. The Leasing Representative worked with the agencies to determine site suitability and worked with the lessors during the construction process to make sure the leased space matched the agency requirements.
- **Senior Space Planner.** Approved the agency space request and drafted the Agency Programmed Requirements for the RFI. The Agency Programmed Requirements identified specific details of space to match the agency's space request.
- **Statewide Facility Manager.** Advised DHS on the amount of space potentially needed on the space request. Determined current space usage at Dwight for DHS.

### **Procurement Policy Board**

The Procurement Policy Board has the authority to review and recommend rules and practices governing the procurement process for the State. Members are required to review any proposed lease of real property of more than 10,000 square feet or any proposed lease of real property with annual rent payments of \$100,000 or more. The Board is made up of five members appointed one each by the four legislative leaders and the Governor. Those at the Procurement Policy Board involved in lease #6627 and lease #6628 included the following:

- **Executive Director.** Along with Board staff, provided lease summaries to the Board members from documents provided by CMS.
- **Board Members.** Members were provided information on lease #6627 prior to the October 2016 Board meeting. However, it was not discussed at the meeting. The Board objected to lease #6628 at the January 2017 Board meeting due to issues with the space not being ADA (Americans with Disabilities Act) compliant and who was responsible for paying for improvements. The lease was later approved at the meeting in February.

### **Department of Human Services**

The Department of Human Services was responsible for determining space needs and submitting an accurate space request. CMS developed the Agency Programmed Requirements (which outline the specification requirements for the proposed lease) which were reviewed and approved by DHS. The CMS Leasing Representative conducted site suitability visits with DHS participating in two of the four visits. Those at DHS involved in lease #6627 and lease #6628 included the following:

- **Assistant Director, Office of Business Services.** Completed the original space request for DHS and participated in two of the site suitability visits.
- **Local Office Administrator.** Sent a detailed memo about the deteriorating conditions at Dwight to CMS.

- **Director, Office of Business Services.** Agency liaison between DHS and CMS for coordinating the moving of the files from Dwight to Springfield.
- **Chief Financial Officer.** Agency fiscal contact on the space request.

**Bureau of Communication and Computer Services  
(Currently Department of Innovation and Technology)**

The Bureau of Communication and Computer Services was responsible for determining space needs and submitting an accurate space request. Like with DHS, CMS developed the Agency Programmed Requirements which were reviewed and approved by BCCS. Those involved at BCCS in lease #6627 and lease #6628 included the following:

- **Chief of Staff.** Agency liaison for the BCCS lease at 719 W. Jefferson St.
- **Chief Customer Officer.** Involved in discussions with CMS regarding the South Grand Ave. East location and its suitability for BCCS' needs.
- **Chief Network Officer.** Involved in discussions with CMS regarding the South Grand Ave. East location and its suitability for BCCS' needs.
- **End User Computing Manager.** Following the initial site visit at the South Grand Ave. East location, sent an email, dated March 24, 2016, to CMS listing several concerns with the location.

**Chief Procurement Office for General Services**

The Chief Procurement Office for General Services has procurement authority over real estate leases procured at CMS. State Purchasing Officers (SPO's) exercise the Chief Procurement Officer's procurement authority at the agency level. The SPO has the authority to approve or reject contracts for a purchasing agency. If the SPO provides written approval of the contract, the State agency has the authority to sign and enter into that contract.

- **Chief Procurement Officer – General Services.** Chief Procurement Officer during the RFI process.
- **State Purchasing Officer.** Approved both leases and published the award notices to the Illinois Procurement Bulletin.

**Executive Ethics Commission**

The Executive Ethics Commission appoints the Chief Procurement Officers and is also responsible for appointing procurement compliance monitors to oversee and review the procurement process.

- **Executive Director.** After the leases had been executed, the Executive Director assigned a Procurement Compliance Monitor (PCM) to review both leases. Upon receiving a draft

of the PCM’s review, the matter was taken to the Commission where it was decided the matter should be forwarded directly to the Office of the Executive Inspector General.

- ***Procurement Compliance Monitor.*** After reviewing the leases, sent a draft memo to the EEC Executive Director on April 18, 2017, outlining several potential issues.

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## LEASING PROCESS

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### **Audit Determination #8**

*The process, time frame, and coordination followed by CMS in examining the lease requirements and advertising the procurement opportunity, including any steps taken to ensure adequate competition.*

CMS has procedures in place for examining lease requirements and advertising the procurement. However, for one of the leases, other than posting to the Procurement Bulletin, no additional outreach was done to increase awareness of the lease and to ensure adequate competition. In addition, the geographic boundaries may have been unduly restrictive.

CMS’ Bureau of Property Management is responsible for all aspects of the leasing process. CMS has established leasing procedures that outline in detail the process for preparing a lease procurement, including examining the leasing requirements and advertising the procurement opportunity. Steps in the process include the following:

- The space request is submitted and the Property Management Business Case is pre-populated. The Property Management Business Case outlines the conditions and utilization of the space that is already in use by the using agency. (The Property Management Business Case was completed for one lease but not completed for the other lease. See Chapter Four for additional discussion.)
- After the space request is reviewed and approved, a Vacant Space Due Diligence form is completed to review State space already owned or leased that could fit the agency’s needs.
- The Senior Space Planner develops the Agency Programmed Requirements, which is approved by the using agency; geographic boundaries are approved by the using agency and the CMS Bureau of Property Management. The Agency Programmed Requirements outline the specification requirements for the proposed lease.
- Once the Request for Information is published, the Leasing Representative drives the boundaries, searches websites, and contacts local brokers or Chambers of Commerce to increase awareness of the Request for Information and encourage potential proposers to submit offers.

The time frame for this process for both leases was between one and two months, as can be seen in the adjacent text box. It took approximately another six months for CMS to select offers for both; lease #6627 did not get any offers until the third Request for Information publication.

Time Frame for Preparation of Leases	
<b>Lease #6627</b>	
1st space request:	09/14/15
1st RFI publication:	10/14/15
<b>Lease #6628</b>	
1st space request:	09/11/15
1st RFI publication:	11/09/15

### Lease Requirements

Lease requirements are outlined in the Agency Programmed Requirements, which is approved by the using agency before the Request for Information is published. We found one issue with the leasing requirements for the warehouse lease.

The Agency Programmed Requirements for the DHS warehouse required that the property be located in one of eight downstate counties. An email between CMS and DHS officials shows that there were originally six counties selected, with CMS adding an additional two. There was no explanation for why these specific counties were chosen. When asked why these specific eight counties were selected, DHS officials said that CMS wanted a downstate warehouse because there was already a records center in Chicago and it would be less expensive, but did not specify why the warehouse had to be located in only these counties. The Illinois Procurement Code states that “*All specifications shall seek to...encourage competition in satisfying the State’s needs and shall not be unduly restrictive*” (30 ILCS 500/20-50). By excluding all other downstate counties without reason, the geographic specifications may have been unduly restrictive.

### Advertising and Other Outreach

We tested both leases to see if CMS followed its own leasing procedures. We found that the process was followed, except in one area.

Other than placing a notice in the State newspaper (the Taylorville Breeze-Courier) and posting to the Procurement Bulletin, no additional outreach was done for lease #6628. CMS leasing procedures specify that after the Request for Information is published, “*Leasing Rep drives the boundaries; searches websites; contacts local brokers, Chambers of Commerce, etc, to increase awareness of the RFI and encourage potential proposers to submit offers.*” While there is a Lease Document Checklist that is filled out for every lease, it does not include any steps for outreach.

CMS provided the Leasing Representative’s letters sent to potential bidders for lease #6627, but no such documents were provided for lease #6628. The letters were sent on October 15, 2015, to five potential bidders. No bids were received and the solicitation was posted again two subsequent times. Despite receiving no bids, CMS did not perform any additional outreach to increase awareness of the lease opportunity for the subsequent postings.

Notice of the two leases was published in the State newspaper but was not published in newspapers in the communities where CMS was seeking the space. The Illinois Procurement Code states:

*Public notice of the request for information for the availability of real property to lease shall be published in the appropriate volume of the Illinois Procurement Bulletin at least 14 calendar days before the date set forth in the request for receipt of responses and shall also be published in similar manner in a newspaper of general circulation in the community or communities where the using agency is seeking space. (30 ILCS 500/40-20(c)) [Emphasis Added]*

While both public notices were published timely, they were published in a Taylorville newspaper, which is located outside of the proposed lease areas. A CMS official said that it was the official State newspaper at the time. While this meets CMS’ own leasing procedures, it does not meet the requirements in the Illinois Procurement Code.

CMS stated that newspapers will not allow CMS to publish ads because of the State not paying its bills timely. CMS provided emails from 2010 and 2013 showing it was refused by several newspapers because of non-payment issues. However, publishing in newspapers in the communities where the agency is seeking space is required by the Procurement Code and is important for any potential bidders that may not be registered on the Illinois Procurement Bulletin.

<b>LEASING PROCESS</b>	
<p><b>RECOMMENDATION NUMBER</b></p> <p><b>5</b></p>	<p><i>The Department of Central Management Services should update its leasing procedures to ensure requirements in the Procurement Code and its leasing procedures are followed to ensure adequate competition. Specifically, the Department should:</i></p> <ul style="list-style-type: none"> <li>• <i>Update its space request form to include justification for the desired geographic location to ensure the location is not unduly restrictive;</i></li> <li>• <i>Add outreach to the Lease Document Checklist to ensure procedures are followed; and</i></li> <li>• <i>Update its leasing procedures for publishing notices in newspapers so that it aligns with the requirements in the Illinois Procurement Code.</i></li> </ul>
<p><b>CMS RESPONSE</b></p>	<p>CMS constantly strives to increase the competition for its procurements. CMS will continue to ensure our leasing procedures meet Procurement Code requirements and that those procedures are implemented with consideration given to generating maximum competition among vendors. This will include:</p> <ul style="list-style-type: none"> <li>• Revising the space request to include reason for the desired geographic location;</li> <li>• CMS has conducted best practice meetings and trainings with our leasing representatives in the past and will schedule another training that will reinforce CMS leasing policies regarding outreach; and</li> <li>• CMS will examine its options to comply with the Procurement Code's publication requirements if vendors decline to do business with the State, which may include suggesting revisions to the Procurement Code.</li> </ul>

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## SHARING OF CONFIDENTIAL INFORMATION

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### Audit Determination #9

*Whether any confidential information was shared between the CMS leasing agent and any of the bidders or potential bidders in the procurement process.*

CMS officials said that they were unaware of any sharing of confidential information. However, emails indicated that the CMS Leasing Representative did share pricing information between the bidders selected for the awards for lease #6627 and lease #6628. This information was shared after CMS made the decision to switch the leases but prior to the final award and was done to facilitate negotiations on final pricing for the altered leases.

The Illinois Procurement Code section on leasing allows discussions with respondents but does not specifically discuss sharing of information. However, a different section, which applies to competitive sealed proposals, does discuss sharing of information. Competitive sealed proposals are similar in that discussions with offerors are also allowed. The Illinois Procurement Code states:

*As provided in the request for proposals and under rules, discussions may be conducted with responsible offerors who submit offers or proposals determined to be reasonably susceptible of being selected for award for the purpose of clarifying and assuring full understanding of and responsiveness to the solicitation requirements...In conducting discussions **there shall be no disclosure of any information derived from proposals submitted by competing offerors.***  
(30 ILCS 500/20-15(f)) [Emphasis Added]

The National Association of State Procurement Officials, in its 2015 guide to state and local government procurement, adds that “*It is critical that discussions not reveal information to offerors about the proposals of competing offerors. Law or rule should prohibit any type of auction practice or the transfer of technical information, which undermines fair competition...*”

For both lease #6627 and lease #6628, the initial selection of offers was posted on April 20, 2016. Prior to that date, there was no indication in the lease files or other emails examined that any information was shared with other respondents. However, after CMS made the decision to switch the purposes of the leases, the CMS Leasing Representative shared information on the amounts bid between the vendors selected for award. The vendors used this information to adjust the amounts of their bids.

An email string from September 14, 2016, shows the Leasing Representative discussing the BCCS lease after the switch. In explaining the new Agency Programmed Requirements to MGM Jefferson Corporation’s real estate agent, he mentioned a rate of \$18.30. When the CMS Lease Administrator asked where this rate came from, he replied: “*The \$18.30 was the Year 1 lease rate proposal for Barney’s property.*” The CMS Lease Administrator replied that the \$18.30 rate did not have any bearing as it was from a different proposer from a different building. The CMS Leasing Representative stated that he had mentioned the rate on the phone

with MGM Jefferson Corporation’s real estate agent and was trying to explain what should be included in the base rate.

In another email, sent August 24, 2016, the CMS Lease Administrator asked the CMS Leasing Representative if he had spoken to one of the partners from Climate Controlled Holdings regarding rates and improvements. The CMS Leasing Representative stated: “*I spoke with [name of partner] Friday about the rate. I gave him some insight of what the proposal[s] were when DHS was looking at West Jefferson and that we wouldn’t be able to pay what they had bid on the initial project for BCCS at the Barney’s site.*” This email implies the sharing of rates from the previous proposals. However, CMS officials said specific rates were not disclosed.

When we met with the CMS Leasing Representative and asked about what information might be considered confidential, he seemed unsure. Without clarifying what information is considered confidential and labeling it as such in the lease files, CMS may negatively affect the fairness of procurements.

<b>CONFIDENTIAL INFORMATION</b>	
<b>RECOMMENDATION NUMBER  6</b>	<i>The Department of Central Management Services should put procedures in place to ensure that all employees involved in procurements understand confidentiality and to ensure that confidential information is not shared with bidders during the procurement process.</i>
<b>CMS RESPONSE</b>	<p>The Department agrees with the recommendation. CMS has procedures in place to protect confidential information; however, CMS will work to better enforce these policies. The audit references two emails over the course of a 21-month procurement, and a supervisor took swift, corrective action. That said, CMS is committed to doing better.</p> <p>CMS has conducted best practice meetings and trainings with our leasing representatives in the past and will schedule another training that will reinforce CMS leasing policies, which stress the importance of maintaining confidentiality and ensure that confidential information is not disclosed to bidders during the procurement process.</p>

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## DECISION TO PROCEED

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### Audit Determination #10

*The decision of CMS to proceed with the warehouse lease after receiving only one bid.*

This determination asks about CMS’ decision to proceed with the warehouse lease after receiving only one bid. An examination of the lease file revealed that the original warehouse procurement (RFI #6628) actually received four bids. After the winning vendor was selected, CMS made the decision to switch the lease and replace it with a location selected for a different procurement (RFI #6627). This second procurement, which was originally issued seeking space for an IT and Telecommunications Support Center, received no bids the first two times it was issued and two bids, both from the same vendor, the third time it was issued.

**The bigger issue is why CMS made the decision to switch leases after selecting offers for award.** This decision is discussed in detail in Chapter Two.

The switching of leases also lacked transparency. Information provided to the Procurement Policy Board did not disclose that the leases had been switched and implied that the DHS warehouse lease was published twice with no offers when it had actually received four bids. This issue is discussed in more detail in Chapter Four.

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## RELATIONSHIPS OF PARTIES INVOLVED

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### Audit Determination #11

*Whether relationships between the seller of the property ("Barney's"), the buyer of the property, and the chairman of the Procurement Policy Board played a role in the warehouse lease.*

Based on an examination of the lease files and other emails, as well as interviews with those involved, we found no evidence that relationships played a role in the warehouse lease.

The Illinois Procurement Code requires bidders to disclose certain relationships. However, these relationships apply only to those with ownership interest in the leasing company. Required disclosures include State employment, elective and appointive offices held, and lobbying relationships. Disclosures apply to the individual and immediate family members involved in any of these activities (30 ILCS 500/50-35(b)).

The three parties involved that are identified in the determination are outlined in more detail below.

- **The Seller.** We did not find any mention of the seller in the documents we examined other than being listed as the seller of the property. When asked about possible relationships, the seller said a former member of Climate Controlled Holdings, LLC was his real estate broker, but he did not know who was involved with the LLC at the time it

bought the building. He had never met the Chairman of the Procurement Policy Board. The seller had no other involvement in the procurement.

- **The Buyer.** The buyer of the property was Climate Controlled Holdings, LLC and its structure can be seen in Appendix D. Climate Controlled Holdings is comprised of three member managers which are also LLCs, one of which is managed by an incorporated business. The incorporated business has the same agent as the LLC it manages and also is the same as Climate Controlled Holdings. The Articles of Organization show that two member managers were withdrawn and replaced by two of the member LLCs on September 19, 2016. Officials from Climate Controlled Holdings did not respond to a letter offering to meet to discuss its views on the State's decision to enter into the lease.
- **Procurement Policy Board.** We met with the Chairman of the Procurement Policy Board and asked about relationships with the seller and the buyer. The Chairman did not know the seller personally, but had bought furniture at his store. He knew one LLC member's relatives and got to know another member after the lease was executed. He said personal relationships did not play a role in the warehouse lease. He added that leases go through many steps before getting to the Board and, once there, he has no more power than any other Board member as everything requires 3/5 vote. It should be noted that the lease was not discussed or voted on, which limited any influence Board members may have had. We interviewed all other members of the Board, who said they did not have any relationships with the seller or buyer of the property.



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## Chapter Four

# OTHER ISSUES

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### CHAPTER CONCLUSIONS

The switching of leases lacked transparency. The information provided by the Department of Central Management Services (CMS) to the Procurement Policy Board (Board) for the Department of Human Services (DHS) warehouse lease was misleading and incomplete which hampered the Board's ability to review the lease. Based on the information provided, the Board would have been unable to tell that the lease originated as an IT (Information Technology) and Telecommunications Support Center. A draft version of the white paper prepared by CMS contained additional explanatory language that was removed in the final version sent to the Board.

The Illinois Procurement Code provides authority to Procurement Compliance Monitors to review procurements and report any findings to the agency and the Chief Procurement Officer. In the spring of 2017, after the leases were executed, the Executive Director of the Executive Ethics Commission directed a Procurement Compliance Monitor to examine the leases. However, the Procurement Compliance Monitor was directed to stop his review by the Commission when the Commission voted to refer the matter to the Office of the Executive Inspector General. No report on findings was provided to CMS or the Chief Procurement Officer. The Executive Director stated that once the Commission referred allegations and related documents to the Executive Inspector General, the State Officials and Employees Ethics Act confidentiality provisions come into play and commission members, their employees, and agents were required to keep the matter confidential and not disclose it. However, if agencies are not provided a report on the findings of reviews conducted, the agencies are unable to correct any procurement deficiencies.

The Illinois Procurement Code gives responsibility to the chief procurement officers for publishing procurement notices to the Illinois Procurement Bulletin. For the two leases examined, posting to the Illinois Procurement Bulletin did not contain all of the information required by the Illinois Procurement Code and the General Services Standard Procurement Rules. In addition, for one of the leases, the procurement reference number was changed in the final award notice making it more difficult to track the lease from the initial posting.

For real property lease procurements, the Illinois Procurement Code requires State Purchasing Officers to make a written determination identifying responses that meet the minimum criteria. However, the State Purchasing Officer's review did not meet this requirement. In addition, there were no procedures in place to ensure the State Purchasing Officer's comments and approval of the procurement process were documented.

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## INTRODUCTION

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In addition to the information specific to the audit determinations discussed in Chapter Three, there were other issues that arose during the course of the audit. Those issues are discussed in the following sections.

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## INFORMATION PROVIDED TO THE PROCUREMENT POLICY BOARD

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The switching of leases lacked transparency. The information provided by CMS to the Procurement Policy Board for the DHS warehouse lease was misleading and incomplete which hampered the Board’s ability to review the lease. Based on the information provided, the Board would have been unable to tell that the lease originated as an IT and Telecommunications Support Center. A draft version of the white paper prepared by CMS contained additional explanatory language that was removed in the final version sent to the Board.

Any lease of real property for 10,000 or more square feet or with annual rent payments of \$100,000 or more is sent to the Procurement Policy Board for review. The Board has 30 days to review the proposed lease. If the Board does not object in writing within 30 days, then the proposed lease becomes effective (30 ILCS 500/40-20(e)).

For each lease, CMS provides the Board the lease document, a white paper, and any other relevant documents such as pictures of the location. The white paper is a summary document prepared by CMS and includes basic information such as the following:

- Term of the lease;
- Square footage;
- Lease rates;
- Headcount;
- Improvements; and
- Lessor name and names of the owners.

The white paper also contains a narrative section called “Lease Rationalization” that describes the current space and the proposed lease. The white paper failed to mention that the lease, which was for a DHS warehouse, originated as an IT and Telecommunications Support Center. The white paper stated the following:

*This RFI #6627 was initially published in October and December 2015, for 44,000 square feet. No offers were received. A third solicitation was published in January of 2016. Two offers were received, both from the same proposer but for different locations.*

While this statement is true, it omits that RFI #6627 was not soliciting offers for a warehouse but instead was soliciting offers for an IT and Telecommunications Support Center. **This statement is misleading and makes the reader believe that the DHS warehouse was published twice with no offers before finally receiving two offers on its third publication.**

The DHS warehouse actually received four offers, none of which ended up receiving the lease for the DHS warehouse.

The white paper was dated September 30, 2016. While examining emails, we found a previous version of the white paper which was sent by the CMS Lease Administrator to the State Purchasing Officer and was dated September 27, 2016. The draft version contained additional language that explained the two different RFI's and that the locations were switched. **However, this explanatory language was removed in the final version of the white paper.** There was no indication in the emails we examined of why the explanatory language was removed. CMS officials stated that the former Deputy Director of Property Management requested the removal of the information as he thought providing that much detail would confuse the Board.

Exhibit 4-1 compares the language in the September 27 draft version to the language in the September 30 final version that was sent to the Procurement Policy Board. The key language is highlighted in red in the draft version, all of which was deleted from the final version. Without this language, Board members would have no way of knowing that the purposes of the leases were switched.

When we spoke with Board members, we asked if they were aware that the lease procurement was originally published for a different agency. None of the Board members were aware of this at the time but several had learned this after the fact. We also asked if this information would have made a difference on whether the lease would have been discussed at the October 2016 Board meeting and whether it would have been approved:

- One member said it would have changed his decision if he had known. He added that from the white paper they were given, he could not tell a switch had been made.
- Two members said there would have been more discussion and it would have raised questions.
- One member said the lack of information makes it difficult to approve or object to items presented.
- One member wasn't sure and didn't want to speculate.

None of the Board members, in their experience with the Board, could recall a situation like this where the leases were switched.

Exhibit 4-1  
**COMPARISON OF LEASE RATIONALIZATION SECTIONS –**  
**CMS WHITE PAPER PROVIDED TO THE PROCUREMENT POLICY BOARD**  
 Lease #6627

September 27, 2016 DRAFT Version	September 30, 2016 FINAL Version
<p><b><u>Current Space:</u></b></p> <p>DHS is currently utilizing space in the former Dwight Correctional Center (State-owned) for storage of files relocated from FCRC offices around the State. The facility is in poor condition to the point that files are becoming damaged, and DHS has run out of room. The Agency submitted a space request for new, climate-controlled warehouse space to be located in Central Illinois.</p> <p>This RFI #6627 was initially published in October of 2015 for 44,000 square feet to house the new Dept of Innovation and Technology (DoIT). No offers were received. A second solicitation in December 2015 also garnered no offers and a third solicitation was published in January of 2016. Two offers were received, both from the same proposer but for different locations. The lowest-cost offer was selected for negotiation.</p> <p>RFI #6628 was initially advertised (twice) for 26,000 square feet to house the DHS warehouse. Four offers were received and the lowest-cost offer was selected for negotiation. Upon further review of the selected sites for these two RFIs, it was determined that the location selected for DoIT would better suit DHS, and vice-versa.</p> <p>For this DHS lease, we are exercising the full offered expansion space up front for 100% of the building, or 60,158 square feet. DHS is currently utilizing over 37,000 square feet at Dwight, and that is cramped with little space to move around between cabinets. The agency plans to move files from at least five other FCRCs (primarily large offices) in the near future.</p> <p><b><u>Proposed Lease:</u></b></p> <p>Proposed is a term of 5 years with an option to renew. Base rent is \$7.95 with a 2% increase every other year throughout both terms. The State will be responsible for utilities, janitorial, snow removal and alarm monitoring, and there is a tax escalation clause with the usual 3% per year cap. Note that the initial offer was for a combination of office and warehouse space for DoIT. When we substituted DHS as the using agency, it changed the space usage to straight warehouse with minimal improvements. Consequently, we were able to negotiate a nearly 57% reduction in base rent from the initial offer. In exchange, we agreed to pick up a couple of additional service costs.</p>	<p><b><u>Current Space:</u></b></p> <p>DHS is currently utilizing space in the former Dwight Correctional Center (State-owned) for storage of files relocated from FCRC offices around the State. The facility is in poor condition to the point that files are becoming damaged. DHS has also run out of room. The Agency submitted a space request for new, climate-controlled warehouse space to be located in Central Illinois.</p> <p>This RFI #6627 was initially published in October and December of 2015, for 44,000 square feet. No offers were received. A third solicitation was published in January of 2016. Two offers were received, both from the same proposer but for different locations. The lowest-cost offer was selected for negotiation.</p> <p>We are exercising the full offered expansion space up front for 100% of the building, or 60,158 square feet. DHS is currently utilizing over 37,000 square feet at Dwight, and that is cramped with little space to move around between cabinets. The agency plans to move files from at least five other FCRCs (primarily large offices) in the near future.</p> <p><b><u>Proposed Lease:</u></b></p> <p>Proposed is a term of 5 years with an option to renew. Base rent is \$7.95 with a 2% increase every other year throughout both terms. The State will be responsible for utilities, janitorial, snow removal and alarm monitoring, and there is a tax escalation clause with the usual 3% per year cap.</p> <p>There will be 4-5 full time employees here. They will utilize work space, kitchenette and restrooms already existing in the building.</p>
<p>Source: CMS Bureau of Property Management.</p>	

<b>INFORMATION PROVIDED TO THE PROCUREMENT POLICY BOARD</b>	
<b>RECOMMENDATION NUMBER  7</b>	<i>The Department of Central Management Services should examine its process of creating and submitting information to the Procurement Policy Board and implement any needed changes to its process as a result of its review. The process should ensure that the information provided to the Board is accurate and complete and that the Board has sufficient information to perform an adequate review of real property leases.</i>
<b>CMS RESPONSE</b>	The Department will scrutinize the process of providing information to the Procurement Policy Board and refine the process to align with best practices, ensuring that the Board has complete and accurate information upon which to base their review of real property leases.

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## EXECUTIVE ETHICS COMMISSION

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The Illinois Procurement Code provides authority to the Executive Ethics Commission to appoint Procurement Compliance Monitors to oversee and review the procurement processes. Specifically, the Code states:

*The procurement compliance monitor shall: (i) review any procurement, contract, or contract amendment as directed by the Executive Ethics Commission or a chief procurement officer; and (ii) report any findings of the review, in writing, to the Commission, the affected agency, the chief procurement officer responsible for the affected agency, and any entity requesting the review. (30 ILCS 500/10-15(b))*

*If the procurement compliance monitor is aware of misconduct, waste, or inefficiency with respect to State procurement, the procurement compliance monitor shall advise the State agency of the issue in writing. If the State agency does not correct the issue, the monitor shall report the problem, in writing, to the chief procurement officer and Inspector General. (30 ILCS 500/10-15(c))*  
[Emphasis Added]

The Executive Director of the Executive Ethics Commission directed a Procurement Compliance Monitor (PCM) to examine the two leases: lease #6627 and lease #6628. This review occurred in the spring of 2017 after both leases were executed. On April 18, 2017, the Procurement Compliance Monitor forwarded a draft memo to the Executive Director that included preliminary results of his examination.

The Executive Director prepared his own memo and forwarded that memo to Commission members. According to the Executive Director, at its April 20, 2017 Commission meeting, the Commission voted unanimously to refer the matter to the Office of the Executive Inspector General.

We spoke with officials at both CMS and the Chief Procurement Office (CPO) for General Services. They were aware of the Procurement Compliance Monitor's review but did

not receive any results from the review. If agencies are not provided a report on the findings of reviews conducted, the agencies are unable to correct any procurement deficiencies.

We asked officials from the Executive Ethics Commission why CMS and the CPO were not given a report on any findings from the review conducted. The Executive Director of the Executive Ethics Commission responded that in his memo to the Commission, he recommended sharing the information with the CPO and asking for her response. However, according to the Executive Director, the Commission members reached a different conclusion upon review of the circumstances and directed the Executive Director to make the referral to the Office of Executive Inspector General and cease all activity with respect to the Procurement Compliance Monitor’s review.

We also noted that, based on the requirements in the Illinois Procurement Code, the agency and the CPO should still have been given the results of the review either prior to, or coinciding with, it being sent to the Office of Executive Inspector General. The Executive Director stated: *“The Commission directed the PCM to initiate the review and then directed the PCM to stop the review, as it had a right to do. There is nothing in §10-15 that says the Commission cannot end a review it initiates, and there is nothing that says the PCM must complete all steps with respect to an investigation once initiated without regard to the direction given by the initiating person or entity.”*

The Executive Director also provided the meaning of the word “direct” according to Webster’s New World Dictionary, Fourth Edition and stated, *“...in accordance with the plain meaning of the language used, the Commission appears to have the authority to control or terminate a review it has initiated.”* The Executive Director further stated that the Procurement Compliance Monitor *“...was directed to stop his Commission-initiated review before he completed his investigation into the leases and issued findings.”*

The Executive Director stated that once the Commission referred allegations and related documents to the Executive Inspector General, the State Officials and Employees Ethics Act confidentiality provisions come into play and commission members, their employees, and agents were required to keep the matter confidential and not disclose it.

Finally, the Executive Director noted that the auditor’s conclusion is based upon a rigid and mechanical understanding of the meaning of the word “shall” that is inappropriate to the context. He concluded that *“...the use of “shall” in Section 10-15(b) appears to be directory rather than mandatory and does not mean a PCM must necessarily complete or create a written report or follow all steps for every review initiated.”*

The Executive Ethics Commission considers the review conducted by the Procurement Compliance Monitor to be a draft document and is categorized as confidential by the Commission.

## PROCUREMENT BULLETIN POSTINGS

For the two leases examined, posting to the Illinois Procurement Bulletin did not contain all of the information required by the Illinois Procurement Code and the General Services Standard Procurement Rules. In addition, for one of the leases, the procurement reference number was changed in the final award notice making it more difficult to track the lease from the initial posting.

### Required Information

The Illinois Procurement Code gives responsibility to the chief procurement officers for publishing procurement notices to the Illinois Procurement Bulletin. The required content of these notices is outlined in both the Illinois Procurement Code (30 ILCS 500/15-25) and in the General Services Standard Procurement Rules (44 Ill. Adm. Code 1.1525). The adjacent text box shows information that must be included in procurement notices such as the name of the using agency and the date the procurement was first offered.

In addition, once a contract is awarded, the award notice must include all of the initial information as well as additional information such as the name of the successful bidder and the number of unsuccessful bidders.

### Testing Results – Lease #6627

We tested each of the procurement notices for both leases to determine if the above information was included as required. As shown in Exhibit 4-2, lease #6627 had seven notices published. Our testing determined:

- 2 of the 7 notices contained all required information.
- 3 of the 7 notices did not contain the name of the responsible State Purchasing Officer.
- One notice was missing 2 of the 14 pieces of information.
- One notice was missing 4 of the 14 pieces of information tested including the number of unsuccessful bidders and the name of each responsive bidder.

Procurement Bulletin Required Content
<p>Notice of each procurement must contain the following:</p> <ul style="list-style-type: none"> <li>• The name of the purchasing agency;</li> <li>• The name of the using agency;</li> <li>• A brief purchase description;</li> <li>• The procurement reference number;</li> <li>• The date procurement was first offered;</li> <li>• The date submission of offers is due;</li> <li>• The location offers are to be submitted;</li> <li>• The method of source selection;</li> <li>• The responsible State Purchasing Officer; and</li> <li>• The State agency person assigned.</li> </ul> <p><b>Award notices</b> must include all of the above information as well as the following:</p> <ul style="list-style-type: none"> <li>• The name of the successful bidder;</li> <li>• The contract price;</li> <li>• The number of unsuccessful bidders; and</li> <li>• The name of each responsive vendor.</li> </ul>

### **Testing Results – Lease #6628**

Lease #6628 had five notices published. Our testing determined:

- All were missing at least one piece of the required information.
- 3 of the 5 notices did not contain the name of the responsible State Purchasing Officer.
- One notice was missing 2 of the 14 pieces of information.
- One notice was missing 4 of the 14 pieces of information tested including the number of unsuccessful bidders and the name of each responsive bidder.

The April 20, 2016 initial award notice, when the offer from MGM Jefferson Corporation was selected, showed zero for the number of unsuccessful bidders and “n/a” for the listing of the names of offerors considered but not selected. We also noted that, for the December 22, 2016 notice of final award, the procurement reference number was changed. Changing the procurement reference number would make it more difficult to obtain the final award information if you were tracking the lease using the previous number.

Exhibit 4-2 TESTING RESULTS TO DETERMINE IF ALL REQUIRED INFORMATION WAS INCLUDED IN THE ILLINOIS PROCUREMENT BULLETIN POSTINGS		
Procurement Bulletin Postings – Lease #6627		
Notice Type	Publication Date	Required Information Not Included
<b>1st Solicitation</b>		
Solicitation overview	10-14-15	• Name of responsible State Purchasing Officer
Cancelled solicitation	12-04-15	<i>All requirements met</i>
<b>2nd Solicitation</b>		
Solicitation overview	12-07-15	• Name of responsible State Purchasing Officer
Cancelled solicitation	01-14-16	<i>All requirements met</i>
<b>3rd Solicitation</b>		
Solicitation overview	01-19-16	• Name of responsible State Purchasing Officer
Initial award	04-20-16	<ul style="list-style-type: none"> <li>• Date submission of offers due</li> <li>• Method of source selection</li> <li>• Number of unsuccessful bidders</li> <li>• Name of each responsive vendor</li> </ul>
Final award	10-04-16	<ul style="list-style-type: none"> <li>• Date submission of offers due</li> <li>• Method of source selection</li> </ul>
Procurement Bulletin Postings – Lease #6628		
Notice Type	Publication Date	Required Information Not Included
<b>1st Solicitation</b>		
Solicitation overview	11-09-15	• Name of responsible State Purchasing Officer
Cancelled solicitation	11-30-15	• Name of responsible State Purchasing Officer
<b>2nd Solicitation</b>		
Solicitation overview	12-01-15	• Name of responsible State Purchasing Officer
Initial award	04-20-16	<ul style="list-style-type: none"> <li>• Date submission of offers due</li> <li>• Method of source selection</li> <li>• Number of unsuccessful bidders</li> <li>• Name of each responsive vendor</li> </ul>
Final award	12-22-16	<ul style="list-style-type: none"> <li>• Date submission of offers due</li> <li>• Method of source selection</li> </ul>
Source: OAG analysis of Illinois Procurement Bulletin postings.		

<b>PROCUREMENT BULLETIN POSTINGS</b>	
<b>RECOMMENDATION NUMBER 8</b>	<p><i>The Chief Procurement Office for General Services should put procedures in place to ensure all required information is included in postings to the Illinois Procurement Bulletin.</i></p>
<b>CPO RESPONSE</b>	<p>Since these procurements were conducted the CPO-GS has worked diligently, in conjunction with CMS, to implement a modern electronic procurement system (BidBuy) to replace the antiquated Illinois Procurement Bulletin. The IPB has not been supported for more than four years, so the CPO-GS has been forced to work within the confines of a system that cannot be altered or updated. Of the 18 pieces of data listed as missing in exhibit 4-2, fourteen are data items that the system should have populated. Examples are that the <i>name of the responsible State Purchasing Officer</i> appears in the award notice but not in the solicitation notice and that the <i>date submission of offers due</i> appears in the solicitation notice but not the award notice. These data items are corrected in BidBuy.</p> <p><i>Name of each responsive vendor and number of unsuccessful bidders should have been included in the award notice. This practice has since been changed.</i></p>

## LEASE TESTING

As part of the audit, we identified various requirements in statutes, rules, policies, and procedures and tested the two leases to determine if the requirements were met. For lease #6627, 21 percent (6 of 29) of the requirements tested were not met, and for lease #6628, 31 percent (9 of 29) of the requirements were not met (see Exhibit 4-3). The following sections highlight some of the requirements that were not met. Others were discussed in previous sections of the report.

Exhibit 4-3 LEASE TESTING RESULTS – REQUIREMENTS NOT MET		
Requirement Tested	Lease #6627	Lease #6628
Did the State Purchasing Officer make a written determination identifying responses that met the minimum criteria?	No	No
Was the offeror that was awarded the final lease a qualified respondent under the terms of the Request For Information for the final lease? <sup>1</sup>	No	No
Was the Request For Information published in a newspaper of the community where space was being sought? <sup>2</sup>	No	No
Was a Property Management Business Case completed?	Yes	No
Is there evidence of the Leasing Representative driving boundaries, searching websites, or contacting local brokers and Chambers of Commerce? <sup>2</sup>	Yes	No
Were rejection letters sent to each responsive bidder who was not selected?	N/A	No
Is a final ADA (Americans with Disabilities Act) Checklist in the file?	No	No
Did the State Purchasing Officer document comments and approval of the lease at all four procurement steps?	No	No
Was the award made to an offeror that best met the criteria specified in the Request For Information? <sup>1</sup>	No	No
<b>Total requirements not met:</b>	<b>6 of 29 (21%)</b>	<b>9 of 29 (31%)</b>
<sup>1</sup> Discussed in Chapter Two. <sup>2</sup> Discussed in Chapter Three. Source: OAG testing of the lease files.		

### State Purchasing Officer Written Determination and Approval

After responses are received from offerors, the Illinois Procurement Code states “...*a State purchasing officer shall make a written determination identifying the responses that meet the minimum criteria set forth in the request for information.*” (30 ILCS 500/40-20(d)) We asked the Chief Procurement Officer (CPO) for General Services for documentation of this step for lease #6627 and lease #6628.

The CPO responded that the State Purchasing Officer provides written determination when he/she publishes the notice that a respondent has been selected. The CPO further stated that, prior to publication of the selected respondent, CMS leasing staff review all responses and

provide that information to the State Purchasing Officer in a spreadsheet so a side by side comparison can be done.

Neither of these steps meets the requirement in the Illinois Procurement Code. The CMS spreadsheet provided does not indicate any review by the State Purchasing Officer. In addition, it is unclear when the spreadsheet was provided to the State Purchasing Officer. In the Illinois Procurement Code, the State Purchasing Officer’s written determination is required to be made prior to any negotiations with the qualified respondents. However, the publication of the notice that a respondent has been selected is after the negotiations. Further, the publication of the notice that a respondent was selected for lease #6627 and lease #6628 did not include the name of each responsive bidder.

CPO Notice 2016.02, which is a policy developed by the Chief Procurement Office for General Services, requires State Purchasing Officers to document their comments and approvals of the procurement steps for procurements valued at \$10,000 or greater in a system called Procurement Business Case. However, the CPO stated that Procurement Business Case is not used for lease procurements. For the two leases we examined, the only documentation of approvals were emails from the State Purchasing Officer to CMS stating “done” in reference to the publication of notices to the Illinois Procurement Bulletin.

<b>STATE PURCHASING OFFICER WRITTEN DETERMINATION AND APPROVAL</b>	
<b>RECOMMENDATION NUMBER  9</b>	<p><i>The Chief Procurement Office for General Services should put procedures in place to ensure that:</i></p> <ul style="list-style-type: none"> <li>• <i>A State Purchasing Officer makes a written determination identifying responses that meet the minimum criteria in the request for information as required by the Illinois Procurement Code; and</i></li> <li>• <i>Comments and approvals of the procurement steps are documented.</i></li> </ul>
<b>CPO RESPONSE</b>	<p>The CPO-GS agrees with the Auditor General’s recommendations. BidBuy prevents a procurement from moving forward without the SPO’s actual approval. Procedures have been implemented to capture the SPO’s written determination identifying responses that meet the minimum criteria.</p>

### CMS Leasing Procedures

CMS developed and implemented policies and procedures to help guide the leasing process. Most of the policies tested were followed; however, we identified four requirements that were not followed. A requirement to increase awareness of the procurement was discussed in Chapter Three under determination number eight. The remaining three requirements are discussed below.

- ***A final ADA [Americans with Disabilities Act] Checklist is completed and added to the file.*** Neither of the leases examined contained this checklist in the file.
- ***Property Management Business Case (PMBC) is pre-populated; the facility manager is instructed to complete and return.*** The Property Management Business Case analyzes the current space being utilized by the requesting agency including the square footage and the condition of the property. This was completed for lease #6627 but was not completed for lease #6628, which originated as the DHS warehouse. A CMS official stated:

*No PMBC was completed for the DHS file warehouse prior to publication of the RFI. While the PMBC is an important part of our standard procedures, there are times when it's not particularly useful. In this case, DHS had a rather immediate need to move out of buildings never designed for long-term storage of confidential records (Dwight). In addition, it was always DHS's intention to continue moving files out of other existing offices as well, and in fact some of those files were still being transferred to Dwight on an ongoing basis. As such, the number of file cabinets located at Dwight was a constantly changing number, not to mention the yet-to-be-determined number of files in other locations waiting to be transferred to the proposed new location. Having someone travel to Dwight to engage in a one-time count of cabinets did not seem worthwhile. Instead, we relied on the Using Agency to adequately establish its space requirement.*

If a Property Management Business Case had been completed as required, an accurate assessment of the space utilized at Dwight would have been established and many of the complications that arose later in the procurement might have been avoided.

- ***The CMS Leasing Representative sends a "rejection letter" to each responsive proposer who was not selected for award.*** For lease #6627, two offers were submitted but they were from the same proposer; therefore a rejection letter was not necessary. For lease #6628, there were three responsive proposers not selected for award. No rejection letters were sent.

<b>CMS LEASING PROCEDURES</b>	
<p><b>RECOMMENDATION NUMBER</b></p> <p><b>10</b></p>	<p><i>The Department of Central Management Services should ensure that the following leasing procedures are followed for all leasing procurements:</i></p> <ul style="list-style-type: none"> <li>• <i>An ADA checklist is completed;</i></li> <li>• <i>A Property Management Business Case is completed; and</i></li> <li>• <i>Rejection letters are sent to responsive proposers not selected for award.</i></li> </ul>
<p><b>CMS RESPONSE</b></p>	<p>CMS has existing policies that dictate when ADA checklists and PMBCs are completed. As part of its current examination of its leasing processes and procedures, CMS will determine which procedures are necessary and revise the process as needed. CMS will educate and/or reinforce these policies and procedures with its staff.</p>

# **APPENDICES**



**APPENDIX A**  
**HOUSE JOINT RESOLUTION**  
**NUMBER 63**



**STATE OF ILLINOIS**  
**HOUSE OF REPRESENTATIVES**  
**100TH GENERAL ASSEMBLY**

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HOUSE JOINT RESOLUTION NO. 0063

OFFERED BY REPRESENTATIVES DAVID MCSWEENEY-GREGORY HARRIS, SAM YINGLING, STEPHANIE A. KIFOWITZ, KATHLEEN WILLIS AND MARK BATINICK

**WHEREAS**, The State of Illinois and its operating units are currently experiencing a fiscal situation that is demanding the close attention of the people of Illinois; and

**WHEREAS**, The State of Illinois and its operating units are constantly incurring millions of dollars of expenses every day just to continue to operate, with much of these operating expenses being piled up into what is now a backlog of more than \$14 billion in unpaid State bills; and

**WHEREAS**, One element of these overall operating costs, and of the State's unpaid bill backlog, are the moneys paid by the State and its taxpayers to rent or lease parcels of real property; and

**WHEREAS**, Serious questions have arisen as to the interrelationship between some of the lease agreements entered into by the State in recent months, the actual market values of the properties being leased, the lease payments that would be paid if their properties were leased in an arm's length transaction between independent parties, and the overall fiscal situation of the State; therefore, be it

**RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDREDTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN**, that the Auditor General is directed to conduct a performance audit of the State's decision to enter into a five-year, \$2.4 million lease for property at 2410 South Grand Ave. East, Springfield, Illinois ("lease"); and be it further

**RESOLVED**, That the audit include, but not be limited to, the following determinations:

- (1) The justification for the space request by the Department of Human Services (DHS), including the location and condition of the premises where the records were previously stored and the functions were previously performed ("existing space");
- (2) Whether the Department of Central Management Services (CMS) or other appropriate State agencies considered renovating the existing space and, if so, what projections were made for the cost of renovating the existing space;
- (3) Whether CMS considered the availability of other State-owned or leased space before the decision to enter into a new lease was made, including what specific State-owned or leased properties were reviewed prior to making the decision to enter into a new lease;
- (4) Whether CMS conducted an analysis of the cost-benefit of purchasing instead of leasing the property at 2410 South Grand Ave. East, Springfield, Illinois, including costs associated with renovating and maintaining the property;
- (5) Whether DHS or any other appropriate State agency has conducted a cost-benefit analysis comparing the costs of digitizing records as compared to maintaining records in hard copy form, including the costs of storage, access, and travel, if any, to retrieve hard copy records for various official purposes, as well as the security risks of confidential records in one form as compared to the other;
- (6) The role of the Procurement Policy Board ("Board") in reviewing the lease, including whether the Board has any conflict-of-interest procedures for members to recuse themselves because of personal, professional, or financial relationships;
- (7) Identification of the persons involved in the procurement, and their respective roles and responsibilities;
- (8) The process, time frame, and coordination followed by CMS in examining the lease requirements and advertising the procurement opportunity, including any steps taken to ensure adequate competition;
- (9) Whether any confidential information was shared between the CMS leasing agent and any of the bidders or potential bidders in the procurement process;
- (10) The decision of CMS to proceed with the warehouse lease after receiving only one

bid; and

(11) Whether relationships between the seller of the property ("Barney's"), the buyer of the property, and the chairman of the Procurement Policy Board played a role in the warehouse lease; and be it further

**RESOLVED**, That we call upon the State of Illinois and its operating units, including, but not limited to, the Department of Central Management Services, to immediately suspend the drafting, negotiation, perfection, and signing of any lease on any parcel of real property, and that this suspension is to continue until the conclusion of the audit directed by this resolution; and be it further

**RESOLVED**, That the Department of Human Services, the Department of Central Management Services, the Procurement Policy Board, and any other State agency or other entity having information relevant to this audit shall cooperate fully and promptly with the Auditor General's Office in the conduct of this audit; and be it further

**RESOLVED**, That the Auditor General commence this audit as soon as possible and report his findings and recommendations upon completion in accordance with the provisions of Section 3-14 of the Illinois State Auditing Act; and be it further

**RESOLVED**, That for the purpose of this resolution, the conclusion of this audit shall not be deemed to have taken place until the Legislative Audit Commission has reviewed the findings of this audit in a public meeting, and the General Assembly has been accorded adequate time on its legislative calendar to take any actions that may be reasonably deemed necessary or desirable to implement any recommendations made by the audit and to remedy any problems or dysfunctions uncovered by the audit; and be it further

**RESOLVED**, That suitable copies of this resolution shall be presented to Governor Bruce Rauner, Michael Hoffman, the Acting Director of Central Management Services; Frank J. Mautino, Auditor General; and Jane Stricklin, the Executive Director of the Legislative Audit Commission.

ADOPTED BY THE HOUSE OF REPRESENTATIVES ON JUNE 25, 2017.

CONCURRED IN BY THE SENATE ON JUNE 28, 2017.



TIMOTHY D. MAPES  
CLERK OF THE HOUSE



TIM ANDERSON  
SECRETARY OF THE SENATE



MICHAEL J. MADIGAN  
SPEAKER OF THE HOUSE



JOHN J. CULLERTON  
PRESIDENT OF THE SENATE

**APPENDIX B**  
**AUDIT METHODOLOGY**



# AUDIT METHODOLOGY

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This performance audit was conducted in accordance with generally accepted government auditing standards and the audit standards promulgated by the Office of the Auditor General at 74 Ill. Adm. Code 420.310. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The audit objectives for this audit were those as delineated in House Joint Resolution Number 63 (see Appendix A), which directed the Auditor General to conduct a performance audit of the State's decision to enter into a five-year \$2.4 million lease for property at 2410 South Grand Ave. East in Springfield, Illinois.

In conducting the audit, we reviewed applicable State statutes and rules. We reviewed compliance with those laws and rules to the extent necessary to meet the audit's objectives. We reviewed policies and procedures relevant to the audit areas. We also reviewed management controls and assessed risk related to the audit's objectives. A risk assessment was conducted to identify areas that needed closer examination. Any significant weaknesses in those controls are included in this report.

We conducted interviews and phone conferences with officials from the Department of Central Management Services, the Department of Human Services, the Procurement Policy Board, the Chief Procurement Office for General Services, the Executive Ethics Commission, and the Department of Innovation and Technology. We also spoke with the former owner of the property located at 2410 South Grand Ave. East and the owner of MGM Jefferson Corporation. We sent letters offering to meet with Climate Controlled Holdings, LLC and the former Deputy Director of the Bureau of Property Management but did not receive a response from either.

We examined the lease files for both lease #6627 and lease #6628. We tested both of these leases for compliance with statutes, rules, policies, and procedures. We also searched the email vaults for relevant emails of three CMS employees involved heavily in the process: the Deputy Director of the Bureau of Property Management, the Lease Administrator, and the Leasing Representative.

Draft reports containing applicable sections were sent to six agencies: the Department of Central Management Services, the Department of Human Services, the Procurement Policy Board, the Chief Procurement Office for General Services, the Executive Ethics Commission, and the Department of Innovation and Technology. Exit conferences were held with two agencies – the Department of Human Services and the Chief Procurement Office for General Services; the remaining agencies did not request an exit conference.

The dates of the exit conferences, along with the principal attendees, are noted below:

---

*Date: April 19, 2018*

**Agency**

**Name and Title**

- |   |  |
|---|--|
| Chief Procurement Office for General Services | <ul style="list-style-type: none"><li>• Ellen Daley, Chief Procurement Officer</li><li>• Jan Morrow, Deputy Chief Procurement Officer</li></ul>            |
| Office of the Auditor General                 | <ul style="list-style-type: none"><li>• Joe Butcher, Audit Manager</li><li>• Jared Sagez, Audit Supervisor</li><li>• Megan Chrisler, Audit Staff</li></ul> |
- 

*Date: April 23, 2018*

**Agency**

**Name and Title**

- |                               |  |
|-------------------------------|--|
| Department of Human Services  | <ul style="list-style-type: none"><li>• Amy DeWeese, Chief Internal Auditor</li><li>• Albert Okwuegbunam, Audit Liaison</li><li>• Robert Brock, Chief Financial Officer</li><li>• Paul Thelen, Family &amp; Community Services</li><li>• Tim Verry, Associate Director, Family &amp; Community Services</li><li>• Beverly Templeton, Family &amp; Community Services, Region 3 Office Administrator</li><li>• Paul Hartman, Director, Office of Business Services</li><li>• Jim Stavrou, Assistant Director, Office of Business Services</li></ul> |
| Office of the Auditor General | <ul style="list-style-type: none"><li>• Joe Butcher, Audit Manager</li><li>• Jared Sagez, Audit Supervisor</li><li>• Megan Chrisler, Audit Staff</li></ul>   |

**APPENDIX C**  
**PERSONS INVOLVED WITH THE**  
**PROCUREMENT**



Appendix C  
**PERSONS INVOLVED WITH THE PROCUREMENT**

Name	Title	Involvement
<b>Department of Central Management Services (CMS)</b>		
Mike Hoffman	Acting Director	<ul style="list-style-type: none"> <li>Signed lease agreements.</li> </ul>
Terry Schierholz (retired)	Deputy Director – Bureau of Property Management	<ul style="list-style-type: none"> <li>Head of the bureau that oversees leases. Now retired, but was Deputy Director during the majority of the process. Signed off on the leases at various stages.</li> </ul>
Susan Florence	Lease Administrator	<ul style="list-style-type: none"> <li>Primarily responsible for leases at CMS. Involved throughout the process including drafting the Space Request Approval form and completing the Vacant Space Due Diligence process. Recommended switching the leases.</li> </ul>
Chip Smith	Leasing Representative	<ul style="list-style-type: none"> <li>Leasing Representative for both of the leases in question. Conducted site visits and negotiated with the vendors.</li> </ul>
Kathleen Britton	Senior Space Planner	<ul style="list-style-type: none"> <li>Based on the agency space request, completed the Agency Programmed Requirements which outlined the specific details of the property requested.</li> </ul>
Rick Tate	Statewide Facility Manager	<ul style="list-style-type: none"> <li>Advised DHS on space request.</li> </ul>
Rick Green	Transactions and Property Administration	<ul style="list-style-type: none"> <li>Conducted the Request for Information offer administrative/responsiveness review.</li> </ul>
Albert Coll	Facilities Support Counsel	<ul style="list-style-type: none"> <li>Conducted legal reviews for the Bureau of Property Management.</li> </ul>
Tony Fuhrmann (retired)	Chief Financial Officer – Bureau of Property Management	<ul style="list-style-type: none"> <li>Signed lease approval form for fiscal review.</li> </ul>
Karen Pape	Chief Financial Officer – CMS	<ul style="list-style-type: none"> <li>Signed lease approval form.</li> </ul>
Ryan Green	Chief Legal Counsel	<ul style="list-style-type: none"> <li>Signed contract approval form for the Bureau of Communication and Computer Services (BCCS) lease.</li> </ul>
LaShonda Hunt	Legal Counsel	<ul style="list-style-type: none"> <li>Signed Contract Approval Form.</li> </ul>
Tim Dalrymple	Stationary Engineer – Asst. Chief, Facilities Management	<ul style="list-style-type: none"> <li>Received August 18, 2015 memo on condition of the Dwight facility.</li> </ul>

Appendix C  
**PERSONS INVOLVED WITH THE PROCUREMENT**

Name	Title	Involvement
<b>CMS – Continued</b>		
David Fasig	Facilities Management	<ul style="list-style-type: none"> <li>Assessed the load rating of buildings at Dwight and completed the Property Management Business Case for the BCCS lease.</li> </ul>
Brad Hermes	Leasing Transactions	<ul style="list-style-type: none"> <li>Prepared fair and reasonable cost information for both leases.</li> </ul>
<b>CMS Bureau of Communication and Computer Services (currently DoIT)</b>		
Jonelle Brent	BCCS, Chief of Staff	<ul style="list-style-type: none"> <li>Agency liaison for the BCCS lease.</li> </ul>
Deb Harvey	BCCS, End User Computing Manager	<ul style="list-style-type: none"> <li>Provided comments on the Agency Programmed Requirements. Wrote March 24, 2016 email listing concerns with the South Grand Ave. East location.</li> </ul>
Trey McGhee	BCCS, Chief Customer Officer	<ul style="list-style-type: none"> <li>Wrote May 18, 2016 email recommending BCCS postpone move.</li> </ul>
Lori Sorenson	BCCS, Chief Network Officer	<ul style="list-style-type: none"> <li>Wrote May 4, 2016 email to CMS stating the South Grand Ave. East location did not meet their needs.</li> </ul>
<b>Department of Human Services (DHS)</b>		
Jim Stavrou	Assistant Director – Office of Business Services	<ul style="list-style-type: none"> <li>Move coordinator and agency liaison between CMS, agency program area, contracted mover, and awarded vendor/landlord. Completed the space request.</li> </ul>
Paul Hartman	Director – DHS Office of Business Services	<ul style="list-style-type: none"> <li>Oversight and local contact for CMS, agency program area, contracted mover, and awarded vendor/landlord.</li> </ul>
Khari Hunt	Chief Operating Officer	<ul style="list-style-type: none"> <li>Testified at the March and April 2017 Procurement Policy Board meetings.</li> </ul>
Beverly Templeton	Regional Office Administrator, DHS Region 3	<ul style="list-style-type: none"> <li>Program contact for contracted mover and CMS; oversight on layout and use of awarded warehouse space and daily operations of the file warehouse.</li> </ul>

Appendix C  
**PERSONS INVOLVED WITH THE PROCUREMENT**

Name	Title	Involvement
<b>DHS – Continued</b>		
Robert Brock	Chief Financial Officer	<ul style="list-style-type: none"> <li>Agency Fiscal Contact on space request.</li> </ul>
Michelle Sanders	Local Office Administrator, McLean County FCRC	<ul style="list-style-type: none"> <li>Sent initial inter-office memo detailing conditions of Dwight facility.</li> </ul>
<b>Chief Procurement Office (CPO) – General Services</b>		
Ellen Daley	Chief Procurement Officer	<ul style="list-style-type: none"> <li>CPO during the procurement process.</li> </ul>
Art Moore	State Purchasing Officer	<ul style="list-style-type: none"> <li>State Purchasing Officer for both leases; approved both leases.</li> </ul>
<b>Procurement Policy Board</b>		
Frank Vala	Chairman	<ul style="list-style-type: none"> <li>Chairman of the Board; member since 2015. Resolution asks about his relationships in determination #11.</li> </ul>
Edward Bedore	Board Member	<ul style="list-style-type: none"> <li>Member of the Board during the lease review period; member since 1998</li> </ul>
Ricardo Morales	Board Member	<ul style="list-style-type: none"> <li>Member of the Board during the lease review period; member since 2005</li> </ul>
Larry Ivory	Board Member	<ul style="list-style-type: none"> <li>Member of the Board during the lease review period; member since 2011</li> </ul>
Bill Black	Board Member	<ul style="list-style-type: none"> <li>Member of the Board during the lease review period; member since 2012</li> </ul>
Matt Von Behren	Executive Director	<ul style="list-style-type: none"> <li>Executive Director of the Board during the lease review period. Also was a former State Purchasing Officer.</li> </ul>
<b>Executive Ethics Commission (EEC)</b>		
Chad Fornoff	Executive Director	<ul style="list-style-type: none"> <li>Directed the Procurement Compliance Monitor to conduct a review of both leases. Matter was referred by the EEC to the Executive Office of the Inspector General.</li> </ul>
Jason Perry	Procurement Compliance Monitor	<ul style="list-style-type: none"> <li>Reviewed both leases in April 2017 after the leases were in effect.</li> </ul>

Appendix C  
**PERSONS INVOLVED WITH THE PROCUREMENT**

Name	Title	Involvement
<b>Other</b>		
John Pruitt	Climate Controlled Holdings	<ul style="list-style-type: none"> <li>Listed as a member in the Articles of Organization; later withdrawn. Signed the offer submitted to CMS.</li> </ul>
Mary Pruitt	Climate Controlled Holdings	<ul style="list-style-type: none"> <li>Listed as a member in the lease agreement.</li> </ul>
Joe Hurwitz	Climate Controlled Holdings	<ul style="list-style-type: none"> <li>Listed as a member in the Articles of Organization; later withdrawn. Acted as the contact person for many of the emails from the Leasing Representative.</li> </ul>
Mary Hurwitz	Climate Controlled Holdings	<ul style="list-style-type: none"> <li>Listed as a member in the lease agreement. Signed the lease agreement.</li> </ul>
Raffi Vartanian	Climate Controlled Holdings	<ul style="list-style-type: none"> <li>Listed as a member in the lease agreement.</li> </ul>
Barry Seidman		<ul style="list-style-type: none"> <li>Seller of “Barney’s” building located at 2410 South Grand Ave. East.</li> </ul>
Michael Grazi	Owner of MGM Jefferson Corporation	<ul style="list-style-type: none"> <li>Awarded Lease #6628.</li> </ul>

Note: This is a list of those primarily involved with the two lease procurements and their titles at the time of their involvement during the period examined (August 2015 – April 2017).

Source: OAG prepared from various sources.

**APPENDIX D**

**OWNERSHIP STRUCTURE OF CLIMATE  
CONTROLLED HOLDINGS LLC**



Appendix D  
**OWNERSHIP STRUCTURE OF CLIMATE CONTROLLED HOLDINGS LLC**

<b>Entity name:</b>	Climate Controlled Holdings LLC		
<b>Date established:</b>	February 22, 2016		
<b>Agent name:</b>	Thomas Storniolo (since September 19, 2016; former agent: John P. Pruitt)		
<b>Address:</b>	20 S Clark St, Suite 1600 Chicago, IL 60603 (since September 19, 2016)		
<b>Managers:<sup>1</sup></b>	1. Andiamo Development LLC		
	<b>Date established:</b>	May 20, 2010	
	<b>Agent name:</b>	Thomas Storniolo (since October 7, 2016)	
	<b>Address:</b>	20 S Clark St, Suite 3000 Chicago, IL 60603	
	<b>Managers:</b>	3 GEN Management Inc. (Since June 2, 2016; former manager: Raffi Vartanian)	
		<b>Date established:</b>	July 9, 2015
		<b>Agent name:</b>	Thomas Storniolo (since November 7, 2016)
		<b>Address:</b>	20 S Clark St, Suite 1600 Chicago, IL 60603
		<b>President:</b>	Jeffrey Richards
	2. Kidstone Group – South Grand LLC		
	<b>Date established:</b>	September 9, 2016	
	<b>Agent name:</b>	Mary Hurwitz	
	<b>Address:</b>	One Lawrence Square Springfield, IL 62704	
	<b>Managers:</b>	Mary Hurwitz	
	3. SGA LLC		
<b>Date established:</b>	September 9, 2016		
<b>Agent name:</b>	Gregory P. Sgro		
<b>Address:</b>	#1 East Shore Lane Springfield, IL 62712		
<b>Managers:</b>	Mary D. Pruitt		

<sup>1</sup> On September 19, 2016, member managers Joseph M. Hurwitz and John P. Pruitt were replaced by Kidstone Group – South Grand LLC, and SGA LLC.

Source: OAG prepared from documents filed with the Secretary of State and CMS lease files.



**APPENDIX E**  
**AGENCY RESPONSES**





Bureau of Internal Audit  
Jack Rakers, Acting Chief Internal Auditor  
320 W. Washington, 1<sup>st</sup> Floor ♦ Springfield, IL 62701

May 1, 2018

Joe Butcher, Performance Audit Manager  
Office of the Auditor General  
Iles Park Plaza  
740 East Ash  
Springfield, Illinois 62703

Dear Mr. Butcher;

Attached are the responses to the confidential recommendations pertaining to the Department of Central Management Services resulting from the performance audit of the State's Leasing Decision conducted by your office pursuant to House Joint Resolution Number 63.

Please do not hesitate to contact me at (217) 524-0828 or email me at [Jack.Rakers@illinois.gov](mailto:Jack.Rakers@illinois.gov) if you have any questions or concerns.

Yours truly,

**SIGNED ORIGINAL ON FILE**

Jack Rakers  
Acting Chief Internal Auditor

Attachment

#	Recommendation and Response
1	<p><b>The Department of Central Management Services and the Chief Procurement Office for General Services should put procedures in place to ensure that leases are awarded only to qualified respondents who submitted bids meeting the original lease specifications.</b></p>
	<p>The Department shares the concern that leases only be awarded to qualified respondents, and is working to evaluate its procedures to balance the flexibility afforded by the procurement code with the goal of providing equal and maximum opportunity for all bidders.</p> <p>As noted, agency needs can evolve during the lengthy procurement process, as they did here with the formation of a new agency and the expanding space needs of another. In this instance, CMS considered several factors - the history of the procurements, the state of the real estate market, the impact of the budget impasse - in determining that the adjustment to the agency qualifications was within its authority and in the best interest of the state.</p> <p>CMS recognizes the change in construction plans was more pronounced than other procurements, but would also note that this procurement did not preclude responsive bidders and each lease was awarded to a qualified bidder of each respective RFI. It's also important to note that not one protest was received.</p> <p>CMS acknowledges its current procurement documents do not adequately convey the flexible nature of leasing procurement and so, in addition to a commitment to reviewing its procedures, CMS is also currently overhauling its leasing documentation to address this issue.</p>
3	<p><b>The Department of Central Management Services should update its Capital Development Board Certification Form or its Lease Document Checklist to ensure that an analysis of the cost-benefits of purchasing or constructing new space is performed and documented.</b></p>
	<p>CMS agrees that an analysis should be done to ensure that the cost vs. benefits of a lease outweigh purchasing or constructing new space. CMS has historically relied on the Capital Development Board to certify as to constructing versus leasing, and intends to work with the CDB to better incorporate and accurately reflect CDB's analysis in CMS's leasing process. In addition, CMS will formalize and document the analysis of leasing versus purchases that historically took place informally, despite the absence of appropriation for real estate purchases. Of note, CMS proposed legislation on February 15, 2018 (SB3143) that will require CMS to annually analyze all leases that contain a purchase option and have completed the third year of the lease and report its findings to the General Assembly. This analysis will recommend whether it is in the State's best interest to exercise the purchase option or to seek to simply renew the lease. This will allow the General Assembly an opportunity to appropriate funding for purchase. In the event the proposed legislation does not pass, CMS plans to incorporate this type of analysis into its Bureau of Property Management (BoPM) procedures. BoPM is engaged in an active procurement for real estate advisory service that would include such analysis.</p>
5	<p><b>The Department of Central Management Services should update its leasing procedures to ensure requirements in the Procurement Code and its leasing procedures are followed to ensure adequate competition. Specifically, the Department should:</b></p> <ul style="list-style-type: none"> <li>• Update its space request form to include justification for the desired geographic location to ensure the location is not unduly restrictive;</li> <li>• Add outreach to the Lease Document Checklist to ensure procedures are followed; and</li> <li>• Update its leasing procedures for publishing notices in newspapers so that it aligns with the requirements in the Illinois Procurement Code.</li> </ul>

CMS constantly strives to increase the competition for its procurements. CMS will continue to ensure our leasing procedures meet Procurement Code requirements and that those procedures are implemented with consideration given to generating maximum competition among vendors. This will include:

- Revising the space request to include reason for the desired geographic location;
- CMS has conducted best practice meetings and trainings with our leasing representatives in the past and will schedule another training that will reinforce CMS leasing policies regarding outreach; and
- CMS will examine its options to comply with the Procurement Code's publication requirements if vendors decline to do business with the State, which may include suggesting revisions to the Procurement Code.

**6 The Department of Central Management Services should put procedures in place to ensure that all employees involved in procurements understand confidentiality and to ensure that confidential information is not shared with bidders during the procurement process.**

The Department agrees with the recommendation. CMS has procedures in place to protect confidential information; however, CMS will work to better enforce these policies. The audit references two emails over the course of a 21-month procurement, and a supervisor took swift, corrective action. That said, CMS is committed to doing better.

CMS has conducted best practice meetings and trainings with our leasing representatives in the past and will schedule another training that will reinforce CMS leasing policies, which stress the importance of maintaining confidentiality and ensure that confidential information is not disclosed to bidders during the procurement process.

**7 The Department of Central Management Services should examine its process of creating and submitting information to the Procurement Policy Board and implement any needed changes to its process as a result of its review. The process should ensure that the information provided to the Board is accurate and complete and that the Board has sufficient information to perform an adequate review of real property leases.**

The Department will scrutinize the process of providing information to the Procurement Policy Board and refine the process to align with best practices, ensuring that the Board has complete and accurate information upon which to base their review of real property leases.

**10 The Department of Central Management Services should ensure that the following leasing procedures are followed for all leasing procurements:**

- **An ADA checklist is completed;**
- **A Property Management Business Case is completed; and**
- **Rejection letters are sent to responsive proposers not selected for award.**

CMS has existing policies that dictate when ADA checklists and PMBCs are completed. As part of its current examination of its leasing processes and procedures, CMS will determine which procedures are necessary and revise the process as needed. CMS will educate and/or reinforce these policies and procedures with its staff.





Bruce Rauner, Governor • James T. Dimas, Secretary

May 1, 2018

Mr. Joe Butcher, Audit Manager  
Illinois Office of the Auditor General  
740 E. Ash St.  
Springfield, IL 62703

Dear Mr. Butcher,

Attached, please find the Department's official response to the finding identified during the Office of the Auditor General's Performance Audit of the State's decision to enter into a five year, \$2.4 million lease for the property located at 2410 South Grand Avenue east.

Please review the attached Departmental response and let me know if you have any questions or concerns.

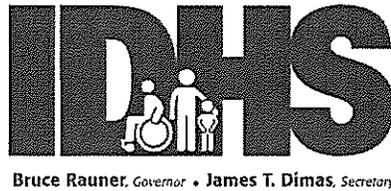
You can reach me at [Amy.DeWeese@Illinois.gov](mailto:Amy.DeWeese@Illinois.gov) or (217) 558-6931.

Sincerely,

**SIGNED ORIGINAL ON FILE**

Amy De Weese, CPA  
Chief Internal Auditor

cc: James T. Dimas, Secretary  
Robert Brock, Chief Financial Officer  
Fred Flather, Chief of Staff  
Khari Hunt, Chief Operating Officer  
CoreyAnne Gulkewicz, General Counsel  
Diane Grigsby Jackson, Director of Family and Community Services  
Internal Audit File



### **Finding Name:**

Assessment of Space Needs

### **Recommendation Number 2**

The Department of Human Services should develop a policy that requires the Department conduct a thorough review of its space needs prior to submitting a space request to the Department of CMS to ensure that the amount of space requested is adequate.

### **Cause**

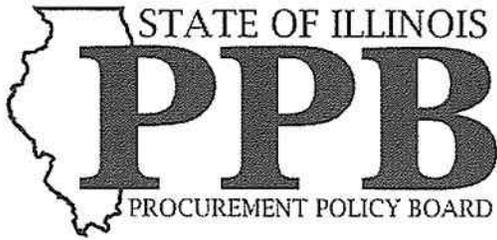
The finding may be attributed to inadequate calculations for bulk warehouse space on CMS templates and a lack of DHS policy addressing a predetermination of space needs prior to submission to CMS.

### **Recommendation**

The Department of Human Services should develop a policy that requires the Department conduct a thorough review of its space needs prior to submitting a space request to CMS to ensure that the amount of space requested is adequate.

### **DHS Response**

The Department accepts the recommendation. We agree that this may be corrected by conducting a more detailed assessment of each space need and working more closely with CMS prior to accepting their final recommendation. The DHS Office of Business Services will draft and implement a policy that will ensure proper reviews and determinations of agency space needs are conducted prior to and in conjunction with CMS space assessments and recommendations.



Chairman: Frank J. Vala  
Members: Ed Bedore, Bill Black, Larry Ivory, Ricardo Morales

May 2, 2018

Joe Butcher  
Performance Audit Manger  
Office of the Auditor General  
Iles Park Place  
740 East Ash  
Springfield, IL 62704

Dear Mr. Butcher,

Pursuant to House Joint Resolution Number 63, your Office has conducted a performance audit of the State's decision to enter into a five-year, \$2.4 million lease for property at 2410 South Grand Ave. East.

Recommendation Number 4:

The Procurement Policy Board should consider developing a written conflict of interest policy for Board Members to clarify instances where a conflict may exist and establish steps to take when a conflict does exist.

Procurement Policy Board Response:

The Procurement Policy Board agree that it should develop a written conflict of interest policy for Board Members and plans to have a policy in place within the coming months.

Please let me know if you have any questions or need further information.

Sincerely,

**SIGNED ORIGINAL ON FILE**

Matt von Behren  
Executive Director  
EEO/AA Officer





May 1, 2018

Joe Butcher  
Office of the Auditor General  
740 East Ash Street  
Iles Park Place  
Springfield, IL 62703-3154

Subject: RE: Response to Audit

Response to **Recommendation #1**: *The Chief Procurement Office for General Services should put procedures in place to ensure that leases are awarded only to qualified respondents who submitted bids meeting the original lease specifications.*

The Chief Procurement Office for General Services disagrees with the finding that the leasing procurements that are the subject of the audit were conducted in violation of the Illinois Procurement Code.

All leases of real property are procured in accordance with Article 40 of the Code. The Code recognizes that the procurement of leased space cannot be accomplished using an Invitation for Bid or a Request for Proposal. Invitation for Bid provides no flexibility for the State to accept a solution that does not meet exact specifications. Request for Proposal allows for negotiation but not deviation from the goods or services described in the solicitation. A Request for Information allows flexibility. Article 40 requires the RFI to include *the proposed uses of the property and a general description of the configuration desired*. The word specification does not appear in the Article at all.

A State Purchasing Officer is required to review and approve or reject procurement activity at four distinct points in a procurement. The agency conducting the procurement must present their work to the SPO for review at these points:

- Step 1: review and approval or denial of the procurement method
- Step 2: review of solicitation document and approval or denial for publication
- Step 3: review and application of determination of award
- Step 4: review and approval or denial of contract execution

#1



# CHIEF PROCUREMENT OFFICE

Ellen H. Daley, General Services

The role of the SPO begins at Step 1, where the SPO is required to determine if the agency's desired procurement approach is appropriate. The SPO does not become involved in the agency's determination of need.

At Step 2 the SPO reviews the RFI and approves posting the RFI to the IPB if the RFI contains the Code-mandated requirements. The SPO ensures that the IPB posting reflects the solicitation documents and that the IPB posting requirements, such as the mandatory minimum fourteen day posting period, are met.

The Code requires the RFI to include

- (1) *the type of property to be leased;*
- (2) *the proposed uses of the property;*
- (3) *the duration of the lease;*
- (4) *the preferred location of the property; and*
- (5) *a general description of the configuration desired.*

The RFI for L6627 called for (1) 44,000 square feet of office/climate controlled warehouse, for (2) the proposed occupancy of CMS BCCS, for (3) five years with a five-year renewal option, (4) located within certain boundaries in the City of Springfield and with (5) the general description included in the document entitled *Agency Programmed Requirements*, which is an attachment to the IPB posting. The State also sought an expansion option of up to 100% of the rentable square footage of the building.

The RFI for L6628 called for (1) 26,000 square feet of climate controlled warehouse space for (2) the proposed occupancy of the Department of Human Services (3) for five years with a five-year renewal option (4) located within the geographic boundaries of eight Central Illinois counties with (5) the general description as described in the preceding paragraph and this RFI also sought the expansion option.

Step 3 requires SPO review of the offers submitted and the determination that the award recommendation go to the *lowest response by price*. Both procurements were awarded to the offeror that met this criterion. The Auditor General agrees and states so on page 26 of the report. The CPO-GS recognizes that the SPO should have recorded award determination language for the file as is required by Code.

#2

At Step 4 the SPO reviews and approves or denies execution of the final lease document. The SPO checks to make sure the lease reflects the offer that was awarded.

L6627 is for 44,000 square feet plus 16,158 of the exercised expansion option. The occupancy of the building has changed from CMS BCCS to DHS. The term of the lease is five years with a five-year



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renewal option. The building is within the geographic boundaries listed in the RFI. Only the proposed occupancy has changed.

#3

L6628 is for 24,210 square feet. The occupancy of the building has changed from DHS to CMS. The term of the lease is five years with a five-year renewal option. The building is within the geographic boundaries listed in the RFI. Only the proposed occupancy has changed.

Neither the Code nor the Rules define proposed so the plain meaning is applicable in statutory interpretation. Merriam-Webster defines the word propose as *to set before the mind (as for discussion, imitation, or action) or to set forth for acceptance or rejection*. The deliberate use of the word “proposed” in 40-20 (b)(2) suggests that the uses set forth in the procurement are not definite and may be subject to change.

The CPO-GS sought the advice of the General Counsel for the Executive Ethics Commission and our procurement attorney, who both opined that neither of these procurements was conducted in an illegal manner. It is also important to note also that no vendors believed they were harmed. There was no protest of either award.

#4

Response to **Recommendation #8** *The Chief Procurement Officer for General Services should put procedures in place to ensure all required information is included in postings to the Illinois Procurement Bulletin.*

Since these procurements were conducted the CPO-GS has worked diligently, in conjunction with CMS, to implement a modern electronic procurement system (BidBuy) to replace the antiquated Illinois Procurement Bulletin. The IPB has not been supported for more than four years, so the CPO-GS has been forced to work within the confines of a system that cannot be altered or updated. Of the 18 pieces of data listed as missing in exhibit 4-2, fourteen are data items that the system should have populated. Examples are that the *name of the responsible State Purchasing Officer* appears in the award notice but not in the solicitation notice and that the *date submission of offers due* appears in the solicitation notice but not the award notice. These data items are corrected in BidBuy.

*Name of each responsive vendor and number of unsuccessful bidders* should have been included in the award notice. This practice has since been changed.

Response to **Recommendation #9** *The Chief Procurement Office for General Services should put procedures in place to ensure that: A State Purchasing Officer makes a written determination identifying responses that meet the minimum criteria in the RFI as required by the Illinois Procurement Code; and comments and approvals of the procurement steps are documented.*



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The CPO-GS agrees with the Auditor General's recommendations. BidBuy prevents a procurement from moving forward without the SPO's actual approval. Procedures have been implemented to capture the SPO's written determination identifying responses that meet the minimum criteria.

Sincerely,

**SIGNED ORIGINAL ON FILE**

Ellen H. Daley  
Chief Procurement Officer for General Services

## **AUDITOR COMMENTS**

1. As noted in the audit report, the State Purchasing Officer responsible for reviewing the leases could not provide documentation of review other than emails to CMS stating “done” in reference to the publication of notices to the Illinois Procurement Bulletin.
2. While the lowest response by price was initially selected, as shown in Exhibit 2-7, after the purposes of the leases were changed, prices were substantially changed for both leases compared to the initial offer. Officials did not give other responders the opportunity to change their bids to meet the new lease requirements. So it is unknown if the lowest priced offer was ultimately selected.
3. Not only was the proposed occupancy changed, the purposes of the leases were changed, the structural layouts were changed, the tenant space requirements were changed, and the prices offered were changed. Exhibit 2-5 shows the significant differences in the tenant space requirements.
4. Auditors were not provided any documentation that opined on the legality of the procurement. It is unclear if the advice sought by the CPO occurred at the time of the procurement or after the leases were already in place.



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