
Committee Meeting

of

NEW JERSEY STATE LEASING AND SPACE UTILIZATION COMMITTEE

LOCATION: Committee Room 15
State House Annex
Trenton, New Jersey

DATE: February 18, 2010
2:30 p.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Nicholas P. Scutari, Chair
Assemblyman Albert Coutinho
Debra Bell

ALSO PRESENT:

John A. MacCalus
Office of Legislative Services
Committee Aide

Gary A. Kotler
Counsel



Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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MR. MacCALUS (Committee Aide): I'd like to call to order the meeting of the State Leasing and Space Utilization Committee of February 18, 2010.

It's being held in Committee Room 15 of the State House Annex, and the time is 4:11 p.m.

We'll take care of some business. We'll do a roll call here.

Senator Nicholas Scutari.

SENATOR NICHOLAS P. SCUTARI (Chair): Here.

MR. MacCALUS: Assemblyman Albert Coutinho.

ASSEMBLYMAN COUTINHO: here.

MR. MacCALUS: And Deputy Treasurer Debra Bell.

DEPUTY TREASURER BELL: Here.

MR. MacCALUS: Okay, so we have a quorum

Notice of the meeting of the State Leasing and Space Utilization Committee was provided to the Secretary of State, the *Courier-Post*, the *Star-Ledger*, the *Trenton Times*, and the State House Press on February 9, 2010, in accordance with the Open Public Meeting Act. For this meeting, as you notice, we have for the 214th Legislature -- which is 2010 through 2012 -- we have a new designee by the Speaker of the General Assembly. Our new member is the Honorable Albert Coutinho, Assemblyman from the 29th Legislative District in New Jersey, and I know we all welcome him aboard. (applause)

SENATOR SCUTARI: Welcome.

ASSEMBLYMAN COUTINHO: Thank you.

MR. MacCALUS: The reason why I am calling an order to business is because we really -- as the first item of business -- we have to

select a Chair for the first annual session of the 214th Legislature. And so, what I need is a nomination, and then a motion and a second for that.

ASSEMBLYMAN COUTINHO: Yes, I nominate Senator Nick Scutari to Chair the Committee.

DEPUTY TREASURER BELL: I second.

MR. MacCALUS: Okay, we have a second. We'll take a voice vote.

Assemblyman Coutinho.

ASSEMBLYMAN COUTINHO: yes.

MR. MacCALUS: Senator Scutari.

SENATOR SCUTARI: Yes.

MR. MacCALUS: And Deputy Treasurer Bell.

DEPUTY TREASURER BELL: Yes.

MR. MacCALUS: Okay; so we have a Chairman. And Senator Scutari will be our Chair for the first annual session of the 214th Legislature.

Want me to go ahead with the approval?

SENATOR SCUTARI: Yes; first let me just say thank you to the members; and we'll go back over the approval of the minutes first, December 11, 2008.

MR. MacCALUS: Yes, we have two.

SENATOR SCUTARI: Okay; as well as December 14, 2009.

MR. MacCALUS: Right.

SENATOR SCUTARI: Okay.

MR. MacCALUS: The first item is for the approval of the minutes of December 11, 2008. We have a motion to approve, and it was by Jack Connors, who was, at that time, at that meeting, and he hasn't been

in attendance since. So Chairman Scutari, do we have a yes or no vote on those minutes?

SENATOR SCUTARI: Yes.

MR. MacCALUS: Okay; and Deputy Treasurer Bell?

DEPUTY TREASURER BELL: Yes.

MR. MacCALUS: Okay. Those meeting minutes are approved.

And for the last meeting, I have a motion to approve from Assemblyman Gusciora, who was at that meeting. Chairman Scutari, do I have a vote?

SENATOR SCUTARI: Yes.

MR. MacCALUS: Okay; and Deputy Treasurer Bell.

DEPUTY TREASURER BELL: Yes.

MR. MacCALUS: We have approval for the minutes of the last meeting, which was December 14, 2009.

SENATOR SCUTARI: Great. Thank you, John.

We will go to Mr. Sutkin for our first presentation, for the first lease.

S T E V E N M. S U T K I N: Thank you, Mr. Chairman.

The first proposal that we're submitting-- Well, first I want to welcome the Assemblyman to the Committee. By way of brief background: I'm the Director of Division of Property Management and Construction. We're a Division of the Department of Treasury. We're in charge of lease procurement for most State departments, some construction and design procurement, real property management, real estate acquisition and disposition, and other related activities for the State.

SENATOR SCUTARI: Mr. Sutkin, thank you for that. And I apologize to the Assemblyman, but thank you and welcome. And thank you for your vote. If you could just introduce the gentleman to your right, and everyone who is going to appear in front of us so the Assemblyman can follow along as well.

MR. SUTKIN: Yes, this is Assistant Deputy Director Craig Bruch. He's in charge of the Lease Procurement Unit within our Division. In case there are questions, there may be other people who stand up who are involved with this initiative, and at that time I'll introduce others, if that's okay.

SENATOR SCUTARI: Outstanding; thank you.

MR. SUTKIN: The proposal that we're submitting is a combined proposal, and it appears behind Tab 1 of your notebook. The Notice of Proposed Leases -- there will be a whole new set of acronyms for you, sir; we call them NPLs -- it's No. 4630 and 4631, are combined.

SENATOR SCUTARI: One second, Steve.

Yes, Mr. MacCalus.

MR. MacCALUS: Steve, I'm sorry. What I have done is, I made it into the same agenda--

MR. SUTKIN: Okay.

MR. MacCALUS: --for Tab 1 and Tab 2, group A, B, and C all together--

MR. SUTKIN: Okay, thank you, John.

MR. MacCALUS: --just to make it easier for the whole project.

MR. SUTKIN: Okay.

These proposals come as a result of a massive planning process in Newark that has taken the better part of two years. It involves about 35 or more State agencies, and over 2,000 State employees who are currently housed in Newark. It has necessarily been a huge undertaking involving all the agencies, in addition to our space planning consultant that we engaged on a competitive procurement basis as well.

Prior to and during the early stages of this leasing process, we explored, initially, renegotiation with one of the majority landholders. We explored the purchase of the building, which was the IDT Building. We had also looked at the Verizon Building, which is 540 Broad Street, when that came on the market. And we preformed certain due diligence on some of the facilities, including engineering studies, economic analyses. We invited the Economic Development Authority's participation in the process. We also, as part of the negotiation effort with one of the current leaseholders, Hartz, we also engaged a consultant to take a look at what their proposals were, to do an architectural engineering analysis of their building. At each step of the way, we tried to do the due diligence that would support the ultimate decision of where we were going to stay in the long term, for the best economics for the State.

We also analyzed a new construction alternative, based on numbers that we received from the School Development Authority, based on their experience in Newark, and ran the numbers on that. Considering the economics, the speed, and the flexibility that the State gets in moving programs -- employee attrition -- none of these alternatives were as good as the two 10-year leases that we're presenting to the Committee today.

In addition, we are currently exploring, with the cost-effective proposers who are being proposed today, options for them to provide furniture, fixtures, and equipment at prices on our terms that are possibly better and faster than we could otherwise obtain through the State's procurement process.

Our goal, once we deemed that the offer at the existing space was not a market offer, was to replace the existing four oversized, expensive leases that we've been in for the most part since 1989. Newark has glut of real estate -- commercial real estate -- and we thought we could take advantage of the opportunities in the market, and that has been borne out by our procurement process.

To take advantage of the competition, we also divided the RFP, which was for 520,000 square feet, and that's how we had master planned it. We broke it down into three separate groups. This way smaller landlords could propose, and we could get better competition and drive the cost down. The result of that bidding was a proposal that was accepted for the Group A, which is on the Notice of Proposed Lease 4630, which is mostly, if not all, for Department of Children and Families and the Department of Human Services; and that is a building at 765 Broad Street. And for B and C -- B being mostly Law and Public Safety organizations, and C being a group that was a combined proposal for B and ASSEMBLYMAN COUTINHO: , from the building at 520 Broad Street, the IDT building.

You'll see in our package that we're putting the agencies at smaller space at cheaper per-square-foot lease costs than we're in now. The present annual gross cost to the State -- that's all costs, including lease, heat, everything, parking -- associated with the current leasehold is about

\$22.5 million. The gross cost associated with the leases that we're presenting today will trim that cost by \$8.5 million a year -- subject to further consolidations and greater savings that we're considering as the State workforce continues to attrite, and the Governor looks at elimination of certain programs that we might, or may not have resident in those occupied facilities. In addition, as you may or may not know, we're currently constructing a parking lot on the grounds of the Northern State Prison, which will have 300 parking spots, which will remove the need for paid-for parking in the City of Newark. It also has other green attributes -- there's less traffic going in and out -- and that will house the DCF, the Children and Families, fleet.

Once we complete that, we anticipate another \$700,000 a year savings from the reduced parking needs.

SENATOR SCUTARI: What's the parking deck costing to construct?

MR. SUTKIN: I think we're paying about-- Oh, what's the whole project--

SENATOR SCUTARI: You're going to save \$700,000 a year as a result of having it built, correct?

MR. SUTKIN: Right.

SENATOR SCUTARI: And what's it costing you to build it?

DEPUTY TREASURER BELL: It's a two-year payback, I believe.

MR. SUTKIN: I think it was about \$2.5 million.

DEPUTY TREASURER BELL: \$2.5--

MR. SUTKIN: So, it was about a three-year payback.

DEPUTY TREASURER BELL: Three-year payback.

SENATOR SCUTARI: If everyone could just turn their cell phones to vibrate. That will allow for the speakers-- Thank you.

MR. SUTKIN: And for additional information, this did not require additional capital from appropriation. It is a partnership that we have with the New Jersey Building Authority, who had residual bond funds due to projects coming in under budget. So there was no additional appropriation required for that.

As you can see on the map that we provided in the package, the agencies are all being located essentially close to where they are now -- in Newark's downtown business district -- with easy and walkable access for the employees, clients, and constituents in the numerous rail stations, light rail, and bus service locations.

For your information, there are presently three actions contesting these Notices of Proposed Lease: There's an action by a group known as New United Corporation that has appealed DPMC's determination that it was out of the Request for Proposal catchment area, and was, therefore, not responsive. We issued a final decision, and they've taken it to Superior Court, Appellate Division.

SENATOR SCUTARI: Say that again?

MR. SUTKIN: The last part?

SENATOR SCUTARI: Yes.

MR. SUTKIN: We issued a final decision, and they appealed that decision to the Superior Court, Appellate Division. So that's where that is now. Five-seventy Broad Street, the representative of that building, was similarly rejected. When they submitted a bid, they didn't submit a

valid registration with the Division of Revenue, and statutorily we had to reject them, because the statute says when it's required as part of the bid, you have to submit a revenue registration. They submitted it of a sister organization, and we brought it to the Division of Law for advice, and they said we had no choice but to reject.

And the third challenge is from two groups, which are essentially jointly represented -- 153 Halsey Limited Partnership and 707 Broad Street Associates, who are the existing landlords, renting over 550,000 square feet of the space that we're in now. And their leases expire October 31 and December 31, respectively. They filed an administrative challenge on February 12, along with other supplemental documents. And responsive submissions from the selective bidders -- that being 520 Broad for Groups B and C and 765 Broad Street -- are due by February 23. The details of the lease proposal packages are further described in the book that I provided, which we can walk through, or I can answer any questions that you may have.

SENATOR SCUTARI: Before you walk through, can you tell me what the -- from your prospective -- the gist of the objections that you've received from the current landlords to the procurement process?

MR. SUTKIN: Yes, they have a variety of objections. Their first objection was that there were invalid post-best-and-final offer communications between the State DPMC and the selected bidders. From our perspective, and what the records shows, these were clarifications, they were not modifications. Irrespective of whether they're called revisions, or clarifications, or modifications in correspondence, to those who are not savvy in procurement law and don't deal with it all the time, these were

clarifications. On one of the bidders, 765 Broad Street -- and Craig, you could provide more details if I'm not saying it correctly -- the sum of the component parts did not add up. They submitted their best-and-final offer; we looked at what that added up to, and to us it added up to 30 cents more per square foot--

C R A I G B R U C H: Thirty cents cheaper than what we analyzed it at.

MR. SUTKIN: Yes. Theirs was 30 cents cheaper than how we had analyzed it. So we said, "Listen, this is our sum. It's not your-- We've added up your component parts, and it's 30 cents more for us than what you've added up to. Which is correct? You need to reconcile this." And I believe that conversation took place on the day the best-and-finals were offered, and the next day these discussions were confirmed in correspondence.

MR. BRUCH: That's correct.

MR. SUTKIN: The issue with the IDT Building was that the bottom line number, again, remained the same. It's just that there was a movement of money or clarification of a cost between base rent and parking in their effort to comply with our RFP. Our RFP said we might be analyzing it with parking or parking would be separately costed, and they just wanted to make sure it was clear.

MR. BRUCH: That's correct.

MR. SUTKIN: But the bottom-line number, the bottom-line rent number, remained the same. But irrespective of that, it was a clarification, it wasn't a modification no matter how somebody calls it -- the

gulf between the bids is just tremendous -- it's just millions of dollars. And that's their lead argument. They have other arguments as well.

SENATOR SCUTARI: Let me ask you this--

MR. SUTKIN: Yes.

SENATOR SCUTARI: The leases that are proposed for the Committee today: At least one of those buildings, in the past hadn't the State made overtures, considerations on your inspections to purchase?

MR. SUTKIN: Absolutely.

SENATOR SCUTARI: Can you explain what went on there?

MR. SUTKIN: Right. We had become aware that the IDT Building came on the market. With the constant encouragement of this Committee, before we engaged in a lease effort, we wanted to explore whether it was more economical to purchase and own. So we started down that route. We engaged the Economic Development Authority to do a detailed economic analysis. We had an appraisal done of the property. We used our consultant that was helping us with the lease to do an engineering analysis of the building. Obviously, we're not going to go forward and purchase a building if it's a bad building. So we wanted it done. But we had to balance -- we didn't do a complete, thorough engineering analysis, but it wasn't kick the tires, either. It was somewhere in between. So they went in, and they identified some of the issues, and some of the issues that they identified were from an owner's perspective: If you're going to own this building for a very long time, here's some of the things that you want to take care of. So we engaged in that analysis; but from my perspective, some of the costs ultimately that we got from Economic Development Authority, after considering the purchase price, the interest, the money that would

have to be put into the building -- the total came to about \$100 million of additional debt. I realize that nobody has that kind of appetite, especially these days, for so much debt, so we decided to run the lease procurement at the same time, because part of the economic analysis, deciding whether to rent or to own, was based on existing lease cost. And it was our considered opinion that the lease costs were going to be much cheaper than the analysis we were using, which was ultimately the case. The least cost came to be much lower. So we did that analysis. But that's not the only place we did an engineering analysis. When the Hartz Building was being offered to us for a lease extension of 20 years, we similarly went in with the Staubach Group, who did a real estate analysis of the cost. They also engaged the Hillier Group to do an architectural engineering review of the building -- part of our standard operating procedure, due diligence, to investigate the facilities before we move forward. Verizon -- 540 -- I think we made an initial determination that it wasn't a-- I can't recall the exact reasons it wasn't a building that we wanted to pursue, so we didn't put in the \$50,000 or whatever dollars it would take to undertake a full engineering analysis. So that was the reason that we did the IDT review.

SENATOR SCUTARI: Assemblyman?

ASSEMBLYMAN COUTINHO: Yes, good afternoon. And just a few questions at this point. First of all, one of the objectives you had mentioned was thrown out for technical defect. I'm curious-- Was that-- this will tie into my second question -- was that bid lower than the one that we're proposing today?

MR. SUTKIN: We have not done the detailed analysis on that. The initial bids that we got in changed a lot between the preliminary

bid and the best-and-final. A lot of bids didn't include things; a lot of bids we had to actually suggest that people increase the square footage they're providing, because they weren't-- So it was such a preliminary bid that we didn't run-- It was deemed unresponsive. In fact, our letter back to them was "we're not going to undertake a further review of your bid, because it's deemed responsive (*sic*) as out of the catchment area." And our concern was, also, we called it the downtown business district. If that group, which was 1.5 miles from where we identified the edge of the catchment area -- admittedly post-submission-- We said downtown business district -- we should have defined it in the bid; we didn't. We made a mistake. But they were 1.5 miles out from the outside edge of the Central Business District neighborhood, as Newark defines it -- and 1.4 miles out from the Downtown District, that's defined by the downtown district neighborhood. The Downtown District is zoned. So I know you're familiar with it, sir.

ASSEMBLYMAN COUTINHO: Very familiar with it.

MR. SUTKIN: Yes. So we didn't undertake a detailed analysis. We didn't walk the building. So I can't put any faith in the numbers they provided. I did look at them -- the numbers looked low. I don't think they were lower than the group that we're proposing for Group A, or the preliminary numbers. They're probably lower than the group we provided for B and C, but we're also-- It was very preliminary. It's very -- I can't think of the word -- but there's also a question, we've been advised -- and we haven't done the investigation yet -- that's there's also deed restricted -- that that property can only be used for hospitals -- speculative. I think it's all-- It was speculative.

ASSEMBLYMAN COUTINHO: Because the reason I ask-- Again, I am very familiar with the area. I represent the City of Newark, it's in my District. Just from reading some articles which have come out about the propose of the lease -- my understanding of the area-- I understand that we've been able to certify this a cost-savings to the State off of the existing leases. But my question is, has the consultant said this is consistent with what is going on in the market at this time? Because given the availability on the market, my gut reaction is this may be -- maybe there was even further savings to be had. Did we do an analysis as to other significant deals in this market, at this time? And was-- Let's say, was this bid the best that we could do in this market?

MR. SUTKIN: We've only compared it to editorial reports that we've seen in newspapers, etc., which have said that the cost that you should be getting now are \$15 to \$19 a square foot, or something like that. And when you strip away the costs that they're not including, we're right in there with these proposals. I have it in my -- I believe it's in here -- what the real costs are. If you look on page 5, under Alternative C: "Exclusive of cost for parking, tenant electric, janitorial, and heat, the first year rental proposed are \$14.27 a square foot and \$19.40 a square foot, respectively."

So when a realtor cites square footage costs, they're not typically including parking, tenant electric, janitorial, and heat.

ASSEMBLYMAN COUTINHO: Okay, thank you.

SENATOR SCUTARI: Any questions? (no response)

Okay; anything further on-- You addressed all the leases for today, or just the one or two--

MR. SUTKIN: Yes. You know what? I did also forget that there was another bidder that was removed from the competition, who hasn't challenged. Their project had code deficiencies -- 24 Commerce -- and we gave them numerous opportunities to address, and they never did. They were basic code problems, and they were removed from the competition, but they haven't challenged.

Our intent was to broaden-- Keep as much competition as possible. At the same time, you have to try and keep an even playing field. It's not the easiest environment to procure hundreds of thousands of square feet of lease space.

ASSEMBLYMAN COUTINHO: Mr. Chairman?

SENATOR SCUTARI: Yes? Go right ahead.

ASSEMBLYMAN COUTINHO: Just one other question, because you had mentioned that-- So one of the buildings which, under this package which is being leased, we had looked at the possibility of purchasing; and we're saying, let's say, to own it the upgrades would be too significant. But are we talking about -- there's no -- I'm just a little bit concerned about entering into long-term lease on a property that I wouldn't buy; you know, just from my own guttural reaction. So I'm just curious: We're not talking about any public safety issues whatsoever, correct? I mean, forego in leasing this instead of owning? Or ADA--

MR. SUTKIN: We've reviewed the building. We have our specifications that they're required to comply with, prior to our occupancy. We have a full, detailed bulletin to our bid, called Bulletin B, and they're required to comply with all of those requirements, including ADA, including environmental, including all the requirements for habitability.

ASSEMBLYMAN COUTINHO: And again, since this is my first hearing, I would just like to put it on the record that I agree with the sentiment of the Chair in terms of the direction the State should be going -- into the possibilities-- If the possibilities exist to purchase, I think that that is definitely the direction we should be going in, especially now with this market -- take advantage of some depressed opportunities to save the State money.

MR. SUTKIN: Well, I could tell you that we did run the numbers and PV analysis, and if we were to stay in this building for 10 years, and even considering a high-residual value, that it would be an 11 -- I could provide these after -- it would be an \$11 million loss to the State to buy in lieu of leasing.

ASSEMBLYMAN COUTINHO: Thank you.

SENATOR SCUTARI: Okay.

DEPUTY TREASURER BELL: Senator, were you asking if there were other leases that needed to be reviewed today?

SENATOR SCUTARI: Yes.

DEPUTY TREASURER BELL: Yes, there are.

Steve, he was asking a different question.

SENATOR SCUTARI: Which have you gotten to so far, because we have public comment on the ones that you've addressed.

MR. SUTKIN: I've addressed 1 and 2, which are combined.

SENATOR SCUTARI: Okay.

MR. MacCALUS: No. 3 and 4 are also (indiscernible)

MR. SUTKIN: Do you want them presented now, or were you going to do public comment now?

SENATOR SCUTARI: No, I'd like to do public comment on those particular leases that you've addressed, okay?

So Mr. MacCalus, you have a sign-up sheet, if anyone would like to sign up to testify, or we can take public comment.

MR. MacCALUS: (indiscernible) sign in sheet. Help yourself.

SENATOR SCUTARI: If there's anyone here who wants to speak as to these leases, or this process, you can sign up there. If anyone wishes to speak, please sign the "sign to speak" sheet, and then I'll call them up to speak.

All right; Irwin Horowitz and Allen Magrini, would you come forward?

A L L E N J. M A G R I N I, Esq.: (pronunciating) Magrini.

SENATOR SCUTARI: Okay, if you say so. (laughter)

MR. MacCALUS: Please state your name--

SENATOR SCUTARI: The time limit will be five minutes for your speaking, unless we need some additional time for questioning.

Mr. Horowitz, can you tell us who you are, and why you're here.

I R W I N A. H O R O W I T Z, Esq.: May I sit?

SENATOR SCUTARI: Yes, please. Make yourself comfortable, sir.

MR. HOROWITZ: I'm Irwin Horowitz. I'm general counsel for Hartz Mountain, who is the owner of the-- Actually, we represent the landlords of both buildings where the State is presently housed.

SENATOR SCUTARI: Could you turn on your microphone.

MR. HOROWITZ: Am I on now?

SENATOR SCUTARI: And sir, who is that individual? Your names?

MR. MAGRINI: Yes, good evening. Allan Magrini, counsel for Hartz Mountain Industries, also, and the two respondents here.

SENATOR SCUTARI: Okay; so we have two lawyers up here.

J O S E P H M. A R O N D S, Esq.: Actually, we have three.

SENATOR SCUTARI: Well, I mean up here.

Please.

MR. HOROWITZ: The first question I have, really, is why we're here today at all. We received notice of this hearing after 4 p.m. yesterday, Wednesday, by e-mail. It seemed very irregular to us that it would be a meeting to talk about proposed leases without hearing fully the challenge that Hartz filed to the bids. I am now even more incredulous having heard Director Sutkin minimize the extent of our challenge and the impact of it. We have, and will demonstrate to you, a lot of material to show you.

But the first question I have is: In Mr. Sutkin's letter to us of yesterday, he says, in his letter, "to present the proposed leases for State Leasing and Space approval." Well, there are no proposed leases. As a matter of fact, one of the bidders, at 765, declined to answer the question on the RFP about what provisions of the lease they would negotiate or accept. They said if they were selected, they would negotiate. That's in direct contravention of any kind of public bidding law that I understand, that in the constraints of the RFP it was clearly stated they had to be responsive. We'll explore that a little bit.

What's happening here is, the State is undertaking what appears to me to be a gambit into financial irresponsibility. They-- We're going down a path of E-Z Pass, Xanadu, and EnCap. It's a shame, it's a waste, it's another blot on New Jersey, but that's what seems to be happening here.

One of our-- I heard Director Sutkin glibly dismiss our improper contact a point as being merely a clarification. Well, then I'd like another clarification. I would like to understand -- and I think the Assemblyman asked the question: Why would you lease a building you wouldn't buy? Edwards & Kelcey were the engineers retained by the State to help them in assessing the building at 520 Broad Street. They project over \$40 million in repairs in 10 years. The budgeted lease bid -- the RFP return -- came back with \$6 million. Of the \$40 million they budgeted, \$5 million was for asbestos removal. There's nothing for asbestos removal in the current bid. Why the State would want to house employees in a building loaded with asbestos and antiquated HVA system is beyond us. At 765, there's no heating or air conditioning in the building -- it comes from another building two-and-a-half blocks away. There's no parking with that building. It comes on an alleged three-year agreement with a parking operator, which is cancellable by either party on 60-days notice.

So I ask myself again: Why are we here? Why are we in a hurry to get this done? The way we read the regulation is, the only reason that could overcome a challenge and present something for approval would be if there was some kind of financial burden or exigency. I know of none.

As a matter of fact, it's cheaper for them to stay in the space they're in than it is to move. However, that seems to fall on deaf ears.

It was also alluded to by the Director that our proposal was more expensive. Of course it was. We complied with the RFP. If we don't have to do the RFP -- HVAC, we don't have to do the air conditioning, we don't have to do the air handling, we don't have to do the other items, we're going to be cheaper. As a matter of fact, we submitted an alternative proposal, several times, with a far cheaper rental than any of the bids received. The RFP is completely unnecessary if the State were really negotiating. So all we have here is what I always fight against, but which seems to haunt me. Well, that's New Jersey.

I just think it's improper, unbelievable that we're rushing to do this. As a matter of fact, in Mr. Sutkin's letter, he says the analysis of our challenge is underway. Well, that was yesterday. If it's underway, why didn't he finish it? How does he know how good it is, or how bad it is? I mean, are we talking about racing to something that will yield a \$50 million excess cost over 10 years? That's absurd; absurd.

SENATOR SCUTARI: Okay, Mr. Horowitz, I'm going to ask if the panel has any questions. (no response)

I know you have co-counsel here. Perhaps co-counsel could get to the points of contention which Hartz Mountain wants us to know. Tell us-- Specifically, what it is that you want us to know about this procurement process and why you're here.

MR. MAGRINI: I appreciate it. There are numerous -- throughout the process here -- both procedural and factual--

SENATOR SCUTARI: If you could turn on your microphone.

MR. MAGRINI: --procedural and factual problems -- I always think green is on -- that are in here. But one just came up; it's amazing. We threw out a bidder because he didn't have a business registration certificate, okay? Five-seventy Broad -- 765 Broad Street --

SENATOR SCUTARI: Let me just interrupt you for one second. Just so I'm clear: You guys are here for Hartz Mountain Industries, which represents which properties?

MR. MAGRINI: 153 Halsey Street and 707 Broad Street.

SENATOR SCUTARI: Those are current leaseholders of the State of New Jersey, correct?

MR. MAGRINI: Yes.

SENATOR SCUTARI: Those two properties only?

MR. MAGRINI: Yes.

SENATOR SCUTARI: Okay.

MR. MAGRINI: It was stated that, by statute, a bidder had to be thrown out because he didn't have a business registration certificate. Seven-sixty-five Broad doesn't have a business registration certificate. In their RFP they submit -- Dan Dill, (phonetic spelling) -- "We have contacted the State -- contacted the State Division of Revenue regarding obtaining a business certificate. Due to content that we were unable to process via State website, our certificates will be forwarded shortly." They don't have a certificate. I submit to you, by statute, they have to be eliminated at this point. You heard Mr. Sutkin say that he has no obligation -- no room -- his hands are tied. This is in the record. This was produced by the State as part of the RFP. It's just something I knew I would talk about.

One of the -- I don't mean to jump around -- on the 520 Broad Street, the lead offer -- January 27, final-and-best offers were due, right? There's a memo in the file that the DPMC is meeting 11:00 a.m. on the 28th. At 5:30 p.m. on the 28th, 520 Broad Street submits an alternative proposal. And it reads -- if I could grab; it's just amazing to see it -- but you do have to see it. Again, being produced by them, it's-- I apologize. It's just an e-mail produced by the State. It's from Jason Sobel, and it's to Paul Campenella of the DPMC. "Paul, it was a pleasure speaking with you today." This is after they had their own internal staff meetings. "On the proposal -- to my client Broad-Atlantic. Attached, per your direction, please find a revised response."

Now, it was said that all they changed was a parking number. If you look at the two proposals -- and I have them here, the one on the 27th and 28th -- they reduced the base rent by \$1.50 a square foot. That's much bigger than you were led to believe -- a very significant change here. Those are just two that I wanted to address, just from hearing the initial presentation. I would just like-- I ask you to indulge me a little bit; there's a lot of items here. The RFP, very specifically, mandated what had to be done: scope of work, detailed proposals, filing requirements. It established very stringent ground rules, and in the first meeting that was held on the 28th of October, 54 questions were asked and answered by the State in writing. Two of them said, specifically, "However, any proposals that material deviate from the RFP will be rejected." Twice that was proposed by the State.

As you can see -- I gave it a few times -- there are numerous material deviations here. Again, the final-and-best offers a day after, I

submit to you, is not a minor thing. It's not an addition problem. Here, the actual rent was changed. The base rent was reduced from \$6.90 a square foot to \$5.40 a square foot. That's much bigger than we were led to believe five minutes ago.

It's critical that you take a look at that. Again, that was 5:30 at night -- 5:30 on the 28th. The morning of the 29th, the awards are issued. It just sounds cozy; it's very cozy.

That's the memo where it's submitted. And again, it's submitted by letter, clearly dated January 28, 2010; much all, it's a revised bid proposal.

SENATOR SCUTARI: What is that you're showing us, sir?

MR. MAGRINI: This is a copy of the January 28 submission by 520 Broad Street back to the State, changing the proposal and changing the base rent in the proposal. Again, after nobody else was given or afforded that opportunity -- other than the people at 765; because they submitted a late proposal, too. Again, on the 27th, and they submitted a revised proposal on the 28th -- nobody else was asked. But it's important. "Paul, it was a pleasure speaking with you today with regard to the proposal of my client, Broad-Atlantic. As per your direction, please find the revised response for the final-and-best offer." Revised -- it doesn't say corrected -- it's a revised response. And I'm telling you it's revised by a significant amount of money. That alone mandates that this process be voided.

If we go to-- We have an exhibit on here-- Again, it's highly unusual and a unique opportunity not afforded to Hartz. Nobody came and asked us, nobody told us you could change your numbers or anything. Not under the law. It's a mandate that you have a level playing field in all

of these processes, and that's one of the reasons such a Committee as this exists. You have to have a level playing field that mandates everybody have the same opportunity.

SENATOR SCUTARI: Counsel, let me just ask you this: You have some other people signed up from, I think, your firm, is that right? Mr. Constantino Milano, and Joseph Aronds? Are they both on the same--

MR. HOROWITZ: They're both with us, yes.

SENATOR SCUTARI: Are they going to want to testify separately, or do you want to present their testimony? Why don't you guys discuss it, and decide--

MR. HOROWITZ: I think we'll do it.

MR. MAGRINI: If you would keep going, we'll save time.

SENATOR SCUTARI: I'm not going to call them, then, and allow you to finish your points as best I can before we move on to--

MR. MAGRINI: I'll be quick, I promise.

SENATOR SCUTARI: No, no that's fine, because we were going to call them up separately; if they're going to yield their time to you, I'll allow you to take it then, all right?

MR. MAGRINI: Again, the ultimate overreaching goal here is to ensure that the bidding of public contracts is fair and free from fraud, thus inviting unfettered honest competition in which bidders are placed on equal footing. I submit to you, second, opportunities to submit best-and-final is not equal footing.

The fact that the decision was made so quickly after the submission of the best-and-final on the 27th, certain people having opportunity on the 28th to submit revised best-and-final, and then a

decision on the 29th, I submit to you, is not a fair and open process, and one that I think this Committee has to take a look at.

The RFP itself mandated and anticipated-- A lease for a large amount of space is a very complicated thing, and the RFP, right in its cover letter, says that it is anticipated that there will be three levels of drawings required. This RFP went off on one set of drawings; and I'll submit to you -- and I'll talk to you in a minute -- on very incomplete drawings. So it mandates that there be a minimum of three levels of drawings, and that would allow the State the opportunity to evaluate them, get additional information, and move on. That was not done, and the State made a decision with very little information. Again, I think that's a significant deviation -- a major deviation -- that mandates the withdrawal of the RFP.

It's a basic requirement that if a bid, as submitted, fails to comply in all material respects with the RFP -- all, not just one -- the defects cannot be rectified after the bids have been opened. That's what's happened here. And this also -- it's in order to preserve the integrity of the bidding process -- the material defect in a bid may not be waived or cured after the violation has occurred. I submit to you, again, that's the irregularities that were allowed here, the second offers, the second final-and-best offers, the opportunity to change the base rent -- that's the line that was changed -- the base rent in the proposal.

All of those things -- the material defects in the process-- And for any one of those, and for all of them in combination, it must be voided -- the whole entire process.

To move on to material defects: 765 Broad Street. In the RFP, the State provided a very detailed lease and said that "this is the State

lease.” If you want to make minor deviations from the lease, you can do it, but not major. Only minor deviations from the lease. They called them *non-material terms* -- can be changed. We submitted the lease, and we said, we accept it as it is, fill in the blanks and we’ll sign it. Seven-sixty-five Broad Street rejects the entire lease -- rejects the entire lease -- and it says here, “as requested, I reviewed Section 3, sample lease of the RFP.” That’s where it was contained in the binder. While I understand this is a form lease, in the event 765 investors are awarded such a lease from the State of New Jersey, it should be noted that the lease would have to be modified and negotiated to reflect the final business terms negotiated. It’s not fill-in-the-blanks; this is negotiation -- “765 LLC Investors’ legal representatives will stand ready to expedite any negotiations in this process.” There is no lease. Them, by not responding to that lease, is a material nonconformity that mandates their proposal be thrown out.

Again, on 765 -- just what we talked about -- they don’t have a business registration certificate filed in this RFP. Again, by statute, as we were just told, it mandates they be thrown out. Other bidders have, and are in the Appellate Division on that. I submit you have to disregard and throw that bid out.

Parking: The State, for the first time today, says we may be building a parking lot for 300 spaces. I’m not sure if they are or they’re not. It’s the first time it comes out today, so it’s not really germane to the RFP. So what you have to look at is what did the RFP say, and what was proposed? The RFP required a minimum of one space per thousand square feet; had to be for the sole and exclusive use of the State; all parking spaces must be available at all times for the State; and they had to be for the

10-year term of the lease. The State wanted-- We're going to lease a building for 10 years, we need one space per thousand square feet for 10 years. The proposal submitted by 765 -- material deviates from every one of those base requirements, every one. The parking for 765 is not specific to the building, okay? It's proposed to be in 10 scattered lots throughout downtown Newark, all owned by Edison Parking. In addition, the term sheet provides numerous items -- has parking at \$65 a space for three years, if you take the three-year term. Again, we're in a 10-year lease, 10 years required. It goes up to \$175 a space for 10 years, or \$250 if you take the luxury space -- and I think those are the ones that were within walking distance without taking a bus -- those are the premium spaces. And they have to be available all the time. In this proposal here, the State -- bear with me for one second; here it is -- Edison may terminate this agreement -- the parking agreement -- upon 60-day's notice in the event they determine to develop the property; the lots or any portion of them are ever closed for expansion, rehabilitation, or improvement; the lots are sold; the licensor ceases to operate. So the State had parking for 60 days, when they require it for 10 years.

In addition, it had to be open 24/7. Currently we provide all the State parking in one parking facility that we control. DYFS uses the building -- the parking -- seven days a week, sometimes 24 hours a day, because they have caseloads to go move people and take people in. Every one of these lots -- it's just an interesting proposal here -- again, here: "Under \$75 space, \$250 a space if you want to be close enough to walk to them." The lots are open Monday through Friday, closed Saturday and Sunday. Monday through Friday from 6 a.m. to 10 p.m.; closed at 7 p.m.--

And the location closes at 6 p.m. if there's an event at the Prudential Center. So you tell me how you have the parking here. Complete-- We have no parking with this lease that the State controls, can feel comfortable with, or understand that they can have for 10 years.

I submit if you sign the lease, you move forward, you get thrown out in 60 days, you're subject to the market in terms of location, and cost, and availability of spaces.

What's even worse-- When the State does its financial analysis of this proposal, what number do you think it plugs into the analysis? The three-year rent at \$65 a space. So what they not only do, they put the blinders on, but now they distort the analysis that they're presenting to you and to the public. I submit to you, if you take the proper leases, which is either the 10-year at \$175 a space, the parking costs in here are underestimated by \$3.1 million. If you take the \$250 a space -- again, the one's that are reasonably accessible to the space -- \$5.3 million the State's analysis underestimates. Why would the State accept all this from a proposal and move it forward? It's unexplainable to me; or I can't fathom why that would happen.

The analysis, again, is what they present to you. They misrepresented about the change in the lease rate -- it's changed. They misrepresent about the parking -- they used a low number, mixed rents and overall occupancy costs -- significantly lower, somewhere between \$3.1 million and \$5.3 million -- very significant. Again, the parking by itself mandates that it be thrown out.

Standards for heating and ventilation-- It's interesting: The RFP has a very, very specific heating and ventilation specification. And it

talks about, you have to comply with ASTRA Standard 90.1, which is a building code, and it tells you all kinds of things about air handlers, and flows, and how often the air turns over in the building, and temperature controls -- very, very specific. We complied with that. When the State said that's what they required, we took that seriously. An incredibly expensive number -- we probably have \$10 million in our budget to upgrade the existing system, which, I submit to you, worked fine, but we took it seriously when the State said in the RFP that's what we have to have. Seven-sixty-five checks the box to deviate from it, okay? No information is provided about the heating system -- zero. So the State can't tell if it works, can't tell if it meets any of those requirements, how often the air turns over, what are the temperature controls. And you know what? On the 28th of October, there's a walk-through of the building -- I may have the date wrong. There's a walk-through of the building, right? I guess in the walk-through, because it's in the State's consultants -- in the notes -- after walking through the building, there's a footnote. It was stated that the chilled water and steam come from the Prudential Building. That building's two and a half blocks away. This building has no independent heat system. This building's not owned by Prudential anymore. What do you do: Prudential goes bankrupt, Prudential leaves Newark, the system blows up, Prudential decides not to deal with the system. The State is now in a building that has no independent heat source or air conditioning source. Again, not described in the RFP; no information by the State again, because they truncated the process. They eliminated a need for plans, and truncated the entire process.

SENATOR SCUTARI: Okay, sir. That is your time, so if you can give us a few points, and wrap up, that you want us to consider.

MR. MANGRINI: One other big thing on 765: Mandated, because that has the DYFS in there, that you have 10 client bathrooms. The proposal says “none; to be determined.” Now, what does that mean? Is that cost in the budget or not? Is the cost in the rent? Don’t know. Is that one of the items to be negotiated when we get the lease, and we’ll put the number in at that point? I think so.

Two seconds, please, on 520 Broad Street. Similar things on the heating and air conditioning. And I just have to go to my tail end here. Most egregious here. The State of New Jersey does an analysis of this building, that I will bet you spent \$50,000 or more going through this property to look at potential of buying it. It’s September 2009 -- the RFP comes out in October 2009, right -- 30 days away. It talks about-- Your consultant says in the first five years -- no, immediately -- you need \$6.5 million in improvements, okay? Immediately. The landlord, in his RFP proposal -- total proposes, for base building improvements, \$4.4 million. So he’s short. Where is he short? On everything. When you come through here, and you take a quick look at this, for the first five years the State would occupy it there’s a mandate for \$31 million more expenditures on the building. And then the final five years, another \$3.1 million -- a total of \$41 million. Now, I submit to you the trick is here: Is you have a lease, and you don’t put this stuff in the base building, because you have a heat system that’s 56 years old in this building -- 56 years old -- that what happens is, these will be repairs in every year. And guess who pays for the repairs, and guess who occupies 96 percent of the building? The State of

New Jersey. So the base cost here that we put in our proposal to create and upgrade a system isn't here. I'm telling you, this is a trick. This is a trick.

The State's own analysis -- this is right from the Edwards & Kelcey report -- again, total budget for base building improvements by this landlord: \$4.1 million. One line item. Environmental hazardous substances, presence of hazardous substances throughout the building. They recommend \$5 million for asbestos removal. So now you've got -- you're \$600,000 short, or you're full of asbestos. And I'm telling you, when we did our buildings 20 years ago, mandated: no asbestos in the building. Stripped down bare, buildings rebuilt. I'm telling you-- It's amazing when you see these things. But those are the numbers from the State reports.

My bottom line on that one is how do you know, how do you know you have these problems in the building; how do you know the landlord says I'm going to do \$4.4 million of upgrades; and the State says, "Nice deal. It's cheap. Let's take it." That's only one of the things you look at. And I submit to you, it's not cheap. It's deviously cheap upfront. Over the long haul -- and not even the long haul -- the short term, it's going to be very expensive to the State of New Jersey.

These are all materials in their binders -- again, there's nothing I've talked to you about that's outside of the record.

SENATOR SCUTARI: Thank you very much for that presentation.

MR. HOROWITZ: I wanted to thank the Committee for allowing us to speak. I also wanted to invite anyone on the Committee to inspect the current State space. We challenge you to look at the space and to see where you think if there is any need for a move at all.

SENATOR SCUTARI: Okay; thank you very much.

And we are going to skip over Mr. Malone and Mr. Aronds.

Mr. Genova, and whoever else you have with you.

MR. HOROWITZ: Thank you again.

SENATOR SCUTARI: Mr. Genova, if you could just introduce the gentlemen with you.

ANGELO J. GENOVA, Esq.: Certainly.

SENATOR SCUTARI: And who you represent, for the record.

MR. GENOVA: First of all, good afternoon, Chairman Scutari. Congratulations on your selection as Chairman.

SENATOR SCUTARI: Thank you.

MR. GENOVA: Assemblyman Coutinho, Deputy Treasurer Bell. My name is Angelo Genova; I'm with the Newark law firm of Genova Burns. We represent Broad-Atlantic Associates, LLC, which is a subsidiary of IDT Corporation.

With me today, to my right, is Jason Sobel, a lawyer of the firm who was intimately involved in this RFP process on behalf of the client; and a representative of the principal, Mr. Shmuel Jonas.

SENATOR SCUTARI: And just because you only have three people, I'm still giving the same amount of time as I gave them, so however you want to divide that up.

MR. GENOVA: Senator, thank you very much. We'll do our best--

SHMUEL JONAS: We're missing two people.

MR. GENOVA: We'll try to be as succinct as possible.

Let me start off by saying this: The representatives of the other entity that just appeared before you tried to suggest that something nefarious occurred here. Words like “cozy relationship,” suggestions of working outside the bounds of the RFP process, and the like, were made by the representatives that just appeared before us. I found that not only offensive to my client and the circumstances of this RFP process, but more fundamentally I viewed that as an indictment to the good men and women of the Department of Treasury who have attempted, as I think has been said by Mr. Sutkin, over two years to work responsibly in the State’s interest. And to simply come in and make an allegation of that sort without any foundation, I think in and of itself is offensive. But what makes it even more offensive is the fact that if there are any biases that were brought to this process, or at least brought to the arguments that you heard here today, the first bias comes from the fact that Hartz, as the incumbent landlord, stands to gain by, number one, any delay in the process, because they are an incumbent landlord. They have the benefit of current leases. They have certain holdover provisions when and if the State were to delay in making its decision here -- making a decision, mind you, after a two-year analysis, a level of due diligence that I think in many respects is unprecedented. Because this underlying project and the underlying policy that was sought to be advanced, as I understand, by the State was the consolidation of its leases, greater efficiencies to the operation of government, a reduction in the total space to be used, and a centralization of many State agencies in the City of Newark.

As far as we understand, that was their agenda. As far as we are concerned, they satisfied that agenda, and it happens to be that we were

fortunate enough to be one of the entities that was determined to be the recommended entity to be the landlord for the State for the next 10 years and beyond in this venue.

I also might point out to you that there's a high degree of deference that not only this Committee, but I also think the courts, give to the administrative process. That to come here and make allegations that people misrepresented things, that people acted in a way that was biased or designed to show favoritism, flies in the face of the notion that there's a presumption of good faith that should be extended to the government agencies that are involved in this process.

So with that as my backdrop, let me make one other point. Please also understand that, at least our reading of the bid submission, that if Hartz is successful in delaying this process, diverting this process from a cost-effective lease award, Hartz' proposal, as we understand it, is \$6 per square foot higher than that of the Broad-Atlantic proposal -- over 30 percent higher.

Let me try to deal in a cogent way with the specific objections that you heard, and cite what I think are the relevant regulations that guide the Department of Treasury's DPMC, who also should guide this Committee.

SENATOR SCUTARI: Before you get into that, let me ask you this question, because it was one of the comments that was brought up: How do you address the objection that was put forward about the State finding it better to lease a building than buy it? How would it be better and be more cost effective?

MR. JONAS: Do you mind if I address that?

MR. GENOVA: My client wants to address that.

MR. JONAS: Do you mind if I address it? Is that okay?

SENATOR SCUTARI: No, go right ahead.

MR. JONAS: My name is Shmuel Jonas. I worked on the proposal with Jason.

Can I borrow your charts for a minute, do you mind? Is that okay with you guys? We didn't have anything prepared.

MR. GENOVA: While he's doing that, I'll continue, and then we'll get to that point.

I just think the first point that was stressed by the Hartz representatives-- Shmuel, let me make a point here, and then we'll come back to that.

MR. JONAS: No problem.

MR. GENOVA: The first point had to do with this idea that there was some subsequent submission. You might recall the discussion of the January 27 and January 28. And the facts are this: That first of all, everybody met the deadline, the December deadline -- at least Hartz did, and we did -- meet the December deadline for the submission of the RFP. And the State asked selected bidders to submit a best-and-final offer subsequent to the submission. So there's no issue here that there was a timely submission of a response to the RFP.

Broad-Atlantic Associates submitted its best-and-final proposal to the DPMC on January 27 as it was required to do with all other proposers.

On January 28, the DPMC communicated in a call with my colleague Mr. Sobel, who is here -- and thank you for the advertisement of our law firm's banner on the blowup; I saw that -- but--

SENATOR SCUTARI: I think everybody knows-- (laughter)

MR. GENOVA: --communicated with Mr. Sobel. So it was the Department that picked up the phone, and I want to make the point: It was the Department that picked up the phone. That no inquiry or initiative was undertaken by Broad-Atlantic Associates towards the government with respect to this. And I might add that I learned about an hour ago that such an undertaking was engaged in by Hartz, when they wrote on February 3 to the Acting Treasurer -- State Treasurer -- Andrew P. Sidamon-Eristoff and made inquiry of Acting Treasurer Sidamon-Eristoff about this specific issue. So we have a communication outside the RFP process, which took place on February 3, which purports to be a proposal with respect to the renegotiation of current leases, but makes a point of concerns associated with this RFP process. So for Hartz to come in with unclean hands and suggest that there's a post-bid communication, when on February 3 they engaged in a post-bid communication, seems to me to be quite incredulous.

But getting back to what occurred on the 27th and the 28th: So on the 28th, the Department communicated with Mr. Sobel, and what it did was it said we need to verify certain information, verify its accuracy, secure a clarification with respect to Broad-Atlantic's proposed numbers. The DPMC requested that Broad-Atlantic provide a breakdown for clarification of the January 27 proposal so that the DPMC could plug the proposed figures into their spreadsheet for comparison of all best-and-final proposals

from other bidders. Essentially, they looked at our bid, they needed a clarification, verification, they wanted to do any apples-to-apples comparison, and they wanted to be sure that how we laid out our numbers gave them the benefit of making that comparison.

SENATOR SCUTARI: You know, Mr. Genova, let's just assume for the moment -- and it's not a stretch at all -- that everyone acted properly. Let's talk about the comparison of the proposals.

MR. GENOVA: Okay.

SENATOR SCUTARI: I think that's the most and ultimate thing that the Committee would like to hear.

MR. GENOVA: That's-- We're going to get-- The question, Shmuel, that you wanted to hear--

MR. JONAS: I just want to point out a few things. One thing is, on this particular piece of paper that they're showing, they cut off the bottom of it. But the main thing that it said was that the prices were a little bit identical. The price was \$19-- In one bid it was \$19.24 (indiscernible) a day later. It's written in black and white right on the bottom of those pages. The difference was that there was 33 cents in what was called "common area electric" and 11 cents of what was called "water and sewer." Charges were removed from being a pro rata share to (indiscernible) common area maintenance. That was the only difference. As they suggested -- the price was changed from \$6.90 to \$5.45 -- is a complete fallacy. That's not true. It was clearly stated.

Now as far as the Edwards & Kelcey--

MR. GENOVA: Could I suggest--

MR. JONAS: Sure.

MR. GENOVA: I want to say it a little differently.

On the bid response, there were line items for water and sewer, and there were line items for building electric. The water and sewer line item was for 11 cents a square foot, and the building electric was for 33 cents a square foot. What the State wanted us to do is to say, "Look, we don't want that in the line item; we want you to put them in another line item," and that line item was the rent rate. So that, to the extent there was a difference in the rent rate from \$19 to \$19.44, that 44 cents came from the elimination of the water sewer line item and the building electric line item. So all we did was to take the same numbers and thereby collapse them into the base rent -- excuse me, the total rent rate. Now, you heard from Mr. Sutkin that the bottom line was the same. Well, we're here to reinforce: The bottom line economics were the same. It allowed the State to clearly do an apples-to-apples comparison, and the aggregate numbers still came out the same. I want to point out -- and I think it's important the Committee understand, and I trust your counsel will point this out to you, too -- which really goes to your question, Senator Scutari -- what's nefarious about this, if at all? Well, first of all, the DPMC's own regulations -- own regulations at NJA17:11-6.7 -- makes clear that the DPMC may seek information outside of the lease space proposal to verify the accuracy and responsiveness of the lease space proposal, and the responsibility of the potential lessor. There's no question on a regulatory basis that the kind of call that was made on January 8 (*sic*), that was initiated by the State, was perfectly appropriate, envisioned by the regulations which are enabled by the underlying statute. Nothing inappropriate happened here. They were

doing their job; they were responding to a legitimate request on verification and the economic bottom line did not change.

SENATOR SCUTARI: Just so we're clear: Let's go on from the fact that everyone acted responsibly and above-board, and there were some things that were said that may not have been -- you pointed out some other things that-- Let's just leave that issue for now.

MR. GENOVA: Sure.

SENATOR SCUTARI: Let's talk about the comparison of the bids, if you don't mind. Because I think that's the ultimate thing that the Committee wants to know.

MR. JONAS: I'm going to address two things: One, I'm going to address the Edwards & Kelcey report, which I (indiscernible). And I'm also going to address what our original construction budget is, which was submitted to the State as part of the first RFP, as well as part of the clarification which was resubmitted with some higher numbers based on conversations with the State, and I'll explain that in a second.

SENATOR SCUTARI: Why don't you do that from the mike, so everyone can hear you.

MR. JONAS: I sort of wanted to look at this as well (referring to charts). I'll do it off of my sheets here.

First off, the \$4.4 million that they suggest is-- I'm going to just read off exactly what it was: It was \$700,000 for the roofing -- I'm using round numbers, just to make it simpler -- \$1.1 million to replace the windows with 1-inch insulated glass; it was \$60,000 for two new bathrooms on the 4th and 17th floors; \$480,000 to renovate the bathrooms to meet new ADA requirements; \$35,000 to renovate an elevator lobby;

\$20,000 to upgrade elevator cabs; \$250,000 to upgrade the railings to meet the new code; it was a re-build of existing cooling tower on the roof, \$250,000; add 200 and (indiscernible) some electric work -- all together, the electric work amounted to about \$400,000, including the fire alarm systems; window blinds, which they accuse us in an earlier e-mail of not having put in -- \$30,000 -- they said we used used ones; permits and plans, \$39,000; and 24-hour security, \$265,000. That's the gist of the main things. The one thing that was left out of there was the asbestos report. We do have an asbestos quote here to take it out -- it's from the Mack Group -- and it's for \$500,000. That was the only item that was not submitted as part of the original budget. They also claim that there was \$31 million in additional items that the State might become responsible for over the course of the next 10 years. I'd like to submit our tenant improvement budget, which was over \$22 million. So that means that the combined bid to do renovations on this building was \$27 million, not \$4.4 million as they keep saying over and over. The \$22 million bid included upgrades to the MEP, to structural, to the walls, to the electric, to the lights in the buildings, and that is most of what the Edwards & Kelcey report goes over. I mean, if you want, I can give you a line-by-line that we have hit every single item on the Edwards & Kelcey report as part of our renovation.

SENATOR SCUTARI: Well, let me ask you this.

MR. JONAS: Sure.

SENATOR SCUTARI: Or whomever wants to answer from your team. Why is it better for the State to lease the building than buy it?

MR. JONAS: Okay, there are two reasons: One reason is, I believe that the Edwards & Kelcey report was done as part of -- not only as

a part of a report, but as part of a negotiation. When a company goes to buy-- I don't know if you've ever bought a house, but usually when you buy a house, you get an inspector, and he comes to the house and he walks through the house and he tells you, you know, "This is no good, and that's no good, and this--" and you show the report to the person whose house you're buying, and you say, "I want a discount."

SENATOR SCUTARI: But you usually don't lease it instead of buying it because it's so broken up.

MR. JONAS: Well, you say you want to try it out, maybe. I mean, we're more than prepared to sell the building to the State of New Jersey, and we're more than prepared to sell them the building at a cost that would be cheaper to them long-term, than renting, at any time during the lease. I mean, we've added many different things into the -- and I'm ready to put that into the lease. I mean, they say that we're not ready to sign the lease; we're ready to sign the lease. The only thing that we had put in, as far as the lease, was that it was under review by our mortgagee. We have permission, we brought copies of all this stuff from our mortgagee that we can sign the lease as is.

MR. GENOVA: I think to supplement that, maybe to understand the building a little bit, if you're not familiar with it -- this building is an iconic building in the City of Newark.

SENATOR SCUTARI: Which building are we talking about?

MR. GENOVA: It housed the Mutual Benefit Life building. There's a light rail station in front of the building, there's a light rail station behind the building. There are 815 on-site parking spaces that would be part of this lease. It has every major bus service in the County of Essex at

its doorstep. It is accessible to both the North Broad Street station and the Penn Station through the light rail.

SENATOR SCUTARI: What's in there now?

MR. JONAS: It's empty.

MR. GENOVA: It's empty. So it's also in a position to be responsive, do the fit-out, and have people in. You asked the question -- and I'll pick up on what Mr. Jonas was talking about. One: The company still has an interest in the sale of the building. Two: The State thought it was prudent -- and, quite frankly, it appears to be prudent -- to go on both tracks. It's decision as to whether or not it was in the State's economic interest to purchase or to rent is its decision to make. I'm sure others can have different views of it. But in terms of whether or not the building has value as a leasehold interest, as a place where people can work; and has extraordinary value given the transportation, given its location, given the ability to fit-out the building immediately, and accommodate those concerns--

What I'd like to do -- and hopefully that's responsive to you, Senator, in that regard -- but I'd like to, with our remaining time, at least try to address some of the specific objections, if you would like us to.

SENATOR SCUTARI: Please.

MR. GENOVA: The first thing I'd like to point out is another regulatory basis for what transpired on the 27th, and then thereafter on the 28th. In NJAC17:11-6-10, there's also an express provision that allows the DPMC to negotiate with potential lessors, post-bid. And they can do that -- and what we're suggesting to you is that there's a regulatory foundation for everything that the DPMC did here. The bottom line is they had no

impermissible contact with the Broad-Atlantic Associates in seeking a verification of accuracy or other clarification. Now, Hartz suggests that there were several material deviations from the RFP, and for the lawyers on the Committee, I think you know what a material deviation is; for those who don't, there's a body of law out there that tells us what a material deviation is. And other than material deviations, are the subject of waiver; and it's within the purview of the parties and the State to waive conditions of an RFP. Now, the courts have interpreted those circumstances which warrant waiver as a minor or inconsequential variance and a technical omission from an RFP, and it's our contention that the concerns raised as they relate to 520 Broad Street were no more than minor or inconsequential variances at best.

Now, the alleged deviations that you heard from Mr. Magrini in his presentation for Hartz are clearly non-material deviations that are capable of being waived by the State, and in some instances contrary to Hartz' assertions, not deviations at all. Now, by way of example: You have the benefit, I think, of their submission on their objections. One of the things they object about is insufficient ceiling heights. The RFP for Groups B and C -- which we're the benefactor of, with regard to ceiling heights -- the finished ceiling heights, it states in the RFP: "Finished ceiling heights shall be a minimum of nine feet in all areas. Any deviation from the required ceiling height shall require advance approval from the DPMC Project Manager." Well, in that sentence, it invites a deviation. That sentence in the language of the RFP leaves room for a deviation, and the only condition to that deviation is the approval of the DPMC project manager. And obviously, to the extent that they accepted a bid that may

have had ceiling heights, in some circumstances, under nine feet, was an acceptance of a deviation that they viewed as inconsequential.

Another objection that was raised was the floor reception area. The RFP defines the general parameters -- the reception areas -- the general parameters non-specific to a particular building. It states that “the DPMC understands that there may be some variation from the space requirements.” Well, again, to the extent that Hartz, or anyone else, points out those variations, they are anticipated by the RFP.

Much was made about accessible restrooms for client use. Again, the Broad-Atlantic complies with this requirement. The RFP states that approximately -- the word approximately -- 12 restrooms, 6 male and 6 female, are required. That approximation is a goal; it is not a condition. Insufficient open space: The RFP states that it’s preferred that daylight and views are shared -- not mandated -- it’s preferred. The language is preferred. And to the extent that Hartz’ objections complains about the specific number of windows, all we’re dealing with is a preference, not a mandated condition.

The bottom line is that the language of the RFP, in regards to many of these things, is sufficiently broad that you can’t construe anything as a deviation that is of any material consequence. It’s important to understand that the RFP clearly states that the DPMC understands “each building is unique and may deviate from the scope of work prescribed by the RFP.” I’m going to repeat that: the RFP clearly states “each building is unique and may deviate from the scope of work prescribed by the RFP.” The deviations pointed out by Hartz are exactly this type of minor deviation expressly allowed for in the RFP.

SENATOR SCUTARI: All right, Mr. Genova. You've had the same amount of time as--

MR. JONAS: Can I just leave one more thing to be read?

SENATOR SCUTARI: Wait a second. Let me speak.

MR. JONAS: I'm sorry.

SENATOR SCUTARI: You've had the same amount of time as the other team. If one of you could wrap up, point out the things you want to let us know, I'll give you a couple of minutes to do that, and then we're going to move on.

MR. GENOVA: Could you give us one minute?

MR. JONAS: I just wanted to read a letter from our engineer, and this is--

SENATOR SCUTARI: Okay.

MR. JONAS: I'm sorry.

This is from our engineer. It says: "Following are my bullet points regarding the Hartz challenges as they relate to the Edwards & Kelcey report.

"The report was created last year as part of an interest by the State to purchase 520 Broad. As such, much of the content has been tailored to ownership issues. The budget numbers naturally represent high-end costs which could be factored into a negotiated purchase offer for the property, which we fully expect, having represented purchasers of similar properties, as we have a 10-year history with 520 Broad, starting with Mutual Benefits Life Companies. We recognize all the unique issues associated with a 50-plus year old building. Many of the points contained in the report refer to the systems having reached the end of their useful life,

based on ASHRAE. We are very familiar with ASHRAE statistical data base for determining life cycles in various types of HVAC systems. What is important to note about these tables is that they represent the mean life expectancy of equipment. The footnotes that accompany the tables explain that one-half of the system will have longer service life than the statistics, and one-half will have a shorter life. The footnotes also point out that climate, building use hours, operation of quality preventative maintenance, all influence useful service life. The Edwards & Kelcey report recognizes this fact, and states in almost every instance that the equipment has been extremely well maintained and could be expected to provide useful service for anywhere from 10 to 15 more years. The challenge takes all of this data out of context and presents a bleak outlook for the building HVAC systems. The challenge also states that the ownership has misrepresented the age and the condition of the systems in its response solicitation. This could not be further from the truth, and there is nothing in the Edwards & Kelcey report that would support such a statement. The fact is, that almost all of the primary equipment is no where near the end of its useful life. The original 1956--” This goes into all sorts of things, which I’m not going to point out-

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SENATOR SCUTARI: This is what we call “wrapping it up.”

MR. JONAS: Yes, so the last thing is--

SENATOR SCUTARI: So, if you want Mr. Genova to do that--

MR. GENOVA: We’re going to wrap up right now. One point on the merits, and then we’ll wrap up.

You heard a lot about this asbestos remediation issue and the costs. What Hartz failed to mention to you is that the actual bid itself puts a cap on any costs the State has with regard to any construction costs, whether it is asbestos remediation or not. So any costs beyond what is in the cap are going to be born by the landlord. That's understood, that's what the State understands, and there's no exposure for doing otherwise.

Let me end on--

SENATOR SCUTARI: Mr. Genova, is there asbestos in the buildings?

MR. JONAS: Yes.

MR. GENOVA: Yes.

SENATOR SCUTARI: That needs to be removed?

MR. JONAS: Yes.

MR. GENOVA: That needs to be removed, correct. And our point is that the cost of that removal resides with us.

Let me end on this point: My client, IDT, is a Newark resident, Newark corporate resident. It is a company that is a Fortune 1000 company; it has 1,200 employees in its international operations -- almost half of those employees are located in the City of Newark. It generates in excess of \$400,000 per year in the payroll tax for the City of Newark and has recorded revenues of \$1.2 billion for 2009. I raise these things with you to point out to you that there's been some suggestion as to our financial viability to perform.

SENATOR SCUTARI: I have some written testimony with respect to that--

MR. GENOVA: Okay.

SENATOR SCUTARI: --\$1.2 billion for (indiscernible), gross profits of \$365 million. I see.

MR. GENOVA: Sure; correct. So I don't need to belabor that. I mean, the fact of the matter is, is that we're perfectly capable of performing. We're perfectly a financially viable company, and have all the requisite financial conditions.

We appreciate the opportunity to sit with you this afternoon. We'll respond to any specific questions if we haven't answered them. And we appreciate your patience with us as we made our presentation.

SENATOR SCUTARI: Thank you, Mr. Genova.

Assemblyman, do you have any specific questions right now?

ASSEMBLYMAN COUTINHO: No, not at this time.

SENATOR SCUTARI: Ms. Bell.

DEPUTY TREASURER BELL: No, I don't.

Are we going to get a chance to talk (indiscernible)

SENATOR SCUTARI: All right. I want to thank everyone for their presentations. The staff, the attorneys -- lots of attorneys; that's always good. The Assemblyman, myself, and the Committee is going to hold this agenda item until the next meeting. We're going to have a short turnaround time on our next meeting. Our next meeting will probably be in the month of March, before the budget break. We want some time to analyze the data and the information that we received, and then we will have a short turnaround time on our next meeting for this specific topic. And I guess if we're going to be here longer, perhaps we can entertain some other leases at that time as well. We can make it a full agenda, but this will be the number one priority of the Committee.

So with that, we're going to hold those two; and I believe there are two other presentations for Tabs 3 and 4, Department of Children and Families, and then we'll have a discussion with respect to the Turnpike Authority.

Mr. Sutkin, thank you.

Mr. Sutkin, on Tabs 3 and 4.

MR. SUTKIN: Thank you, Chairman.

On the last two items, which I understand are being presented on the consent agenda, are NPL 4629, which is a new 10-year lease with cancellation provisions after years 5 and 7, for the Division of Children and Families in Monmouth Park Corporate Center, as described behind Tab No. 3; and 4520, which is a new lease at the existing location, also for the Department of Children and Families, in Hackensack.

SENATOR SCUTARI: Is this for the West Long Branch, and then Hackensack, is that what the two locations are?

MR. SUTKIN: No.

MR. BRUCH: West Long Branch is 4629; and the other one is 4520, which is the Hackensack lease.

MR. SUTKIN: Yes.

MR. BRUCH: Both are DYFS.

SENATOR SCUTARI: Okay; any questions on these proposals? Any public comment on this? (no response) I'm seeing none. I will entertain a motion on these two tabs.

ASSEMBLYMAN COUTINHO: So moved.

DEPUTY TREASURER BELL: Second.

SENATOR SCUTARI: Roll call.

MR. MacCALUS: Okay; Senator Scutari.

SENATOR SCUTARI: Yes.

MR. MacCALUS: Assemblyman Coutinho.

ASSEMBLYMAN COUTINHO: Yes.

MR. MacCALUS: Deputy Treasurer Bell.

DEPUTY TREASURER BELL: Yes.

MR. MacCALUS: Tab No. 3 and Tab No. 4, NPL 4629 and 4520, have passed.

SENATOR SCUTARI: That was a little easier (laughter)

ASSEMBLYMAN COUTINHO: Can we get a reconsideration now that the lawyers are gone? (laughter)

SENATOR SCUTARI: Lawyers always wind them up. Do you see that? (laughter)

As everyone knows, it's not an ordinary course of practice in this Committee when we have so much testimony, so I did think it was prudent in that fashion.

ASSEMBLYMAN COUTINHO: I thought it was me.

SENATOR SCUTARI: Thank you very much for the information. I look forward to talking to you very shortly about the other things that were presented today, and we'll set up a new date for the next meeting by the end of next week, and then I'll talk to the Assemblyman and Ms. Bell, and we'll pick a new date so we can get back on that issue, as well as any other issues you may have at that time that might be timely.

MR. SUTKIN: Okay; all right, thank you.

SENATOR SCUTARI: So with that, thank you.

MR. BRUCH: Thank you.

SENATOR SCUTARI: I will ask if Executive Director Diane Gutierrez-Scaccetti is here from the Turnpike Authority, at my invitation. Glad to see that someone finally responded.

Thank you for being here.

M S. D I A N E G U T I E R R E Z - S C A C C E T T I: Thank you, Senator.

SENATOR SCUTARI: If you could turn on your microphone. Outstanding.

MS. GUTIERREZ-SCACCETTI: Oh no, it's off now. I'm good? Okay.

SENATOR SCUTARI: Just pull that forward.

MS. GUTIERREZ-SCACCETTI: How's that?

SENATOR SCUTARI: Thank you.

In the past, I had written to the Turnpike Authority to come and just discuss with us their space needs, their space occupancy, some of the things that they have that may be empty; so we can get a grasp, as the State of New Jersey, where you're at, and how we can interface with some of the needs that you may have and/or some of the needs that we have -- specifically with respect to the property that's been vacant, where the former headquarters was.

MS. GUTIERREZ-SCACCETTI: Sure.

SENATOR SCUTARI: Can you tell us about that? Why is it vacant, how long it's been vacant, what are your plans for it?

MS. GUTIERREZ-SCACCETTI: Yes, I can answer all those questions.

For your benefit, it's Diane Gutierrez-Scaccetti. I'll spell that for you later.

The property at Interchange 9 on the New Jersey Turnpike is the original headquarters of the Turnpike Authority, constructed sometime in the early 1950s. It was constructed in three separate parts. In total, it's about 116,000 square feet of space, including a lower level that serves as the basement and utility or boiler area, as well as some office space.

SENATOR SCUTARI: What did you say -- 116,000?

MS. GUTIERREZ-SCACCETTI: Correct; all together, with the round portion of the building, and then there's a rectangular portion, and the square portion behind that that generally you don't see from the roadway.

And, as you know, in July 2003, the Turnpike Authority and the Highway Authority merged, and so we had, at that point, two separate buildings where the Highway Authority was housed in Woodbridge and the Turnpike Authority was housed. But there was a need to start combining staff and bringing functional units together so that they could not only learn to work together, but we could start to combine processes and be able to really derive some of the cost benefits of consolidation. So at that time, there was a determination that we were going to have to figure out how to do that and how it would be most effective to do that.

In 2005, the Mack-Cali space became available, which is the space we're in today, located at 581 Main Street in Woodbridge. That was previously occupied by First Investors, and First Investors had left, and the location of the building was very similar to being right on the roadway and kind of at the crossroads of the Parkway and the Turnpike. So it was really

very applicable space for us, and they had enough space available to combine almost all of the functions of--

SENATOR SCUTARI: Where were you for the two years in the interim, from the merger? Where were you for the two years from the interim of the merger?

MS. GUTIERREZ-SCACCETTI: In between the two buildings, so we still had folks in the Woodbridge building; we still had functions in the old Turnpike building; and while we were trying to kind of retrofit some space to bring folks together, we had temporary leases over in a building called Turnpike Plaza on Route 18 in East Brunswick. And, unfortunately, folks went through multiple moves, in some cases, until we found the Mack-Cali space, where everyone finally was settled.

So the East Brunswick building that you see has been vacant since April of 2006. At that time, I was not the Executive Director, but it was my understanding that there was--

SENATOR SCUTARI: Who was it then?

MS. GUTIERREZ-SCACCETTI: Michael Lapolla.

SENATOR SCUTARI: I just talked to him about this.

MS. GUTIERREZ-SCACCETTI: At that time, there had been some interest. We believed there had been some interest locally by developers in purchasing the property that is at Interchange 9. If you're familiar with the property, you know that it abuts, right at Interchange 9, with a helipad that's been there forever. And the major-- There are two major issues: First is vehicular access to the building. In order to get into the building from the Turnpike, you have to cross over both entry lanes to enter 18 North and 18 South. Those of us who have been with the

Turnpike as long as I have refer to that as playing Frogger every morning, because it's not the easiest thing to do, and there's not a lot of space in terms of the cut throughs that get you to the driveway to the building. So access has always been an issue.

Southbound-- If you're going northbound on 18 to get to the building, it doesn't have the same issues, but to try to get out of the building onto 18 North -- again, very difficult merge.

SENATOR SCUTARI: I've been there.

MS. GUTIERREZ-SCACCETTI: It's not the best location. So for those who haven't, you'll know that it's not the easiest; it's not always the best in terms of trying to get in and out.

Other than that, the building is very old. It's not ADA compliant; we have one elevator. Our boardroom was absolutely insufficient. It had grown from a three-member Board when the Board was created, to what is now an eight-member Board as a result of consolidation.

SENATOR SCUTARI: How many square feet do you occupy now in Woodbridge?

MS. GUTIERREZ-SCACCETTI: I want to say-- We've lost, in consolidation, about 550 people in terms of reduction in staff, so the space needs are probably about the same, in terms of maybe 125,000 square feet.

SENATOR SCUTARI: So you see my quandary here.

MS. GUTIERREZ-SCACCETTI: But it's better-- What the difference is, it's a better laid-out space.

SENATOR SCUTARI: But you see my quandary. The State of New Jersey has had property vacant for almost four years, and has been

leasing property somewhere else for the last four years. And all we do here is approve leases.

MS. GUTIERREZ-SCACCETTI: So we have entertained visits from the State who, from time to time, were interested in occupying part of the building. The problem is, the building, as it is laid out, is really just not functional. Again, the HVAC system is very poor. What I had asked last year of our Board is to undertake the feasibility of leveling the property and rebuilding a building for us, so that when the lease that we're in is up, we can move back home to our own building that we own, just the same way we would advise your kids, right? Don't rent if you can own; don't throw your money away.

SENATOR SCUTARI: Well, let me ask you this: What are you paying in rent?

MS. GUTIERREZ-SCACCETTI: It's an escalating rent. This year we'll be paying close to \$3 million.

SENATOR SCUTARI: And when does your lease run out?

MS. GUTIERREZ-SCACCETTI: It was 10 years, so it's 2016.

SENATOR SCUTARI: So what's going to happen with this property for the next six years?

MS. GUTIERREZ-SCACCETTI: Well, by the time we design a building, level the one we have, do the environmental cleanup, and construct a new building, it's going to take some time. As you may know, Assemblyman Wisniewski has been kind enough to put some design-build legislation in for us so that we might be able to build something a little quicker, but we hope that if we can move the process along, get the building designed, look at our specifications -- part of our hope was to talk to the

folks at Treasury about the concept of maybe allowing some consolidation of offices; in other words, building a building that may be larger than our needs, but if the State had needs in the area where they have leases that they knew were going to be coming up, similar to ours, that we would be able to build that space.

SENATOR SCUTARI: I can tell you that we seem to have leasing needs all over the state, so that might be something-- Let me ask you this, because information's been given to me, maybe it's not correct -- that this building has had a fairly recent renovation.

MS. GUTIERREZ-SCACCETTI: Which building?

SENATOR SCUTARI: The building we're talking about -- your old headquarters that's laid vacant for four years.

MS. GUTIERREZ-SCACCETTI: What type of renovation?

SENATOR SCUTARI: I don't know.

MS. GUTIERREZ-SCACCETTI: No; believe me, I've lived in it for 18 years. My walls are metal. I mean, you have to hang things on the walls with magnets. The boardroom is beautiful. Our carpenters, in 1950, built the table. It seats three across for the old three-space Board and it's diagonal to the end. I can barely fit my Board and the Directors who might have agenda items to present. You could never bring the public in in any responsible way, or anyone who is physically disabled, into that boardroom to participate in a meeting.

SENATOR SCUTARI: When was it built?

MS. GUTIERREZ-SCACCETTI: The early 1950s.

SENATOR SCUTARI: Okay.

MS. GUTIERREZ-SCACCETTI: The round portion of the building that you see is not an office building. That's where our dispatchers used to be housed. So it's not-- Today, to create offices there-- there's offices on the exterior wall of the building, but the core of the building is really just open floor space where the consoles were, and a couple of odd-shaped offices where supervisors and our highway advisory radio staff were. In order to go in there -- and I wouldn't even be able to speak at any substantive level about the level of asbestos you may find when you go in there and attempt to start taking the walls down in those buildings. We've talked about, and talked about many times, building a second floor -- in my tenure -- building a second floor on the square building that you can't see from the roadway. It's the building -- if you've been there, it's where the reception area is. Engineers don't feel that it was probably really built to withstand a second floor. And in talking to the acting Commissioner of DOT and talking to the Chief Engineer of the Turnpike, we believe it would be far more cost-effective to simply level the building, do whatever environmental cleanup needs to be done from the fact that there were some tanks that had been built into the ground there a while -- many years back -- and build a new building that's green, that's clearly energy-efficient, and then enter into discussions with the State, through Treasury, about perhaps if they have needs that are going to be similarly situated to ours in six years. There's nothing that says we can't build a building bigger than just what we need to accommodate other State offices.

SENATOR SCUTARI: Well, that would be my suggestion if that's the road.

MS. GUTIERREZ-SCACCETTI: Well, that's the plan. And I didn't bring it today; we only have one of them right now, the feasibility study that has a design of a building that would allow for that. That's what we asked the engineering group that did the planning to look at: a building that would be able to-- If the State has a financial situation, it would seem to me that if we could build a building -- and our rent is going to be much more reasonable, trust me, than developers rent -- that would make sense. And if we can build a parking garage, because if you know the property, you also know that parking is not prime there. If we can build a parking garage to accommodate additional floors on the building beyond those of our employees, why wouldn't we want to do that to try to combine some of those offices.

So that is the plan we've undertaken. I spoke to Chairman Simpson about it on Tuesday, asking him if we could go forward with the next steps to do some preliminary design. He said yes. So we'll be putting what we call a *Request for Expressions of Interest* together for preliminary design. We would like to wait to see if the design-build legislation comes to fruition -- that would make the building go a little bit faster.

SENATOR SCUTARI: Why? What would that do?

MS. GUTIERREZ-SCACCETTI: Well, when you do design-build, it's one firm. So what they do is they're designing as they build, right? They design and then they start construction, and it happens much faster, similar to the way when the State built the Otis Hub, out in West Trenton. It was done as a design-build project. It just allows for quicker construction and it's especially beneficial for vertical construction. So when-- For instance, we have, in our capital plan, improvements to a

lot of our maintenance buildings on our districts, on both roadways, because they are similarly as old as the original administration building. Some still don't have women's facilities built into them. So when we do those having a design-build contractor, you can bid them as a package, and then they design and build as they go, as opposed to going through the process of bidding everyone separately, and taking many, many more years to get the project done. It's generally a much more cost-efficient way; it's another tool that we would use, again, on vertical construction.

But given the fact that we asked on Tuesday for permission to at least go to prepare what we call an REOI for preliminary design, that's what we would like to do. The building that we're in is very nice, and it's very nice to look at; but it's not overly efficient in terms of energy. We think that we're a lot better off in our own building, with what is available to us today in terms of environmentally friendly type of technology where we can have lights that go on and off when people are not in rooms, when people aren't using facilities. They're not necessarily-- They don't have to be heated or cooled. We think that makes a lot of sense, and we think it makes sense to go back to a property that, honestly, no one has shown any interest in purchasing at least in the last 18 months I've been the Executive Director.

DEPUTY TREASURER BELL: May I just--?

SENATOR SCUTARI: Yes, please.

DEPUTY TREASURER BELL: Just a couple of comments/observations. One is-- I will tell you, it's been a frustration of Treasury to-- I've been here almost three years, and almost from the very beginning there were inquiries made of this building, and whether or not we

had to go out to get new leases for a DCF; which, you know, we had State money that had to be invested, leasing-- We approached again on the property last year. And whether or not the property needs some renovation or not, we couldn't even get to the point of determining the size of the renovation. So that's point one, because that has been a frustration. Maybe DOT didn't have a need for it, but the balance of the State did for the Turnpike Authority.

The other is just-- I'm curious why you're in a rush to build something faster -- design-build -- if you are stuck in a lease until 2016.

MS. GUTIERREZ-SCACCETTI: Because we have other people and other facilities we can be looking at moving in there besides just the folks who are in the lease. For instance, we have a maintenance facility at Interchange 8 that will be affected by the widening project, and we'd like to centralize our maintenance administration in the new building with us. So we can be moving in folks even earlier. Even if we go through a design-build process, it's not like the building is going to be built in two years; it's still going to take multiple years. And what we would like to do is have that building built and fully furnished so we can be in when the lease is up. I can't wait until the sixth year to be in the building, so I have to actually have the building done, say, in the beginning of the sixth year.

DEPUTY TREASURER BELL: I understand that. And I don't want to debate with you, but it normally doesn't take six years to build a building.

MS. GUTIERREZ-SCACCETTI: It does when you have a lot of environmental clean up that you're going to have to do. There's going to

be a lot of environmental work to be done on that property. And that's something we have-- We have a cell tower we're going to have to relocate--

DEPUTY TREASURER BELL: And we still know it's economic to do all of these things?

MS. GUTIERREZ-SCACCETTI: Well, it's that or continuing to pay rent, or trying to find another piece of property when we already have a piece of property that we own. And, in any event, we'd still have to clean up if we sold it. So we're going to be in the same place. We're still going to have to clean it up if we sell it. We're still going to have to go through a certain amount of work on the building, on the property, to make it feasible for sale. We don't have any interested buyers -- it's not as though anybody's knocking on the door, or writing letters, saying, "I'd really like to know, I'm interested--"

SENATOR SCUTARI: Well, how would they know it's available for sale?

MS. GUTIERREZ-SCACCETTI: I believe when it was first vacated that that was done. And I think folks were made aware that the building was available for sale, and I believe that an appraisal was done at the time. I was not--

SENATOR SCUTARI: Not that I'm suggesting it be sold. I'm just--

MS. GUTIERREZ-SCACCETTI: But, again, I think that most people have learned in that area that it's vacant. I don't think it's-- I'm not sure that -- it's been kind of a mystery. There are still a group of employees that work in the basement of the square building until we finish our full relocation on disaster recovery of some of our computer systems.

SENATOR SCUTARI: There's no present use for the building now, even for the people that you have there?

MS. GUTIERREZ-SCACCETTI: Just this one group that is still down in the basement until the balance of the computers move out.

And I can address your point about this summer: We told them that we'd make the building available to them; that the individual from Treasury who came to visit the East Brunswick site wasn't interested in something that was short-term; that we were going to look at doing something to that site within a couple of years. They told us they weren't interested. They wanted, basically, a long-term commitment from the Turnpike Authority that we weren't going to do anything with the building. And at that moment in time, we couldn't promise that, because we are going to have our own space need six years from now. So that really was the issue when they came in July. The last time we visited with folks from Treasury was July 2009, and it was just a matter of not being able to meet the need of a long-term arrangement for housing the folks that they were looking to move, some of which may be the subject of some of the leases you were talking about earlier today. But that was really what happened with that conversation, is that we know we have a need, and I don't want to wait if I'm still there in two or three years, I don't want to wait two or three years to figure out where I'm going to move, because then I'm going to get myself boxed in. And honestly, it's very expensive to be in a rented space, because you pay your lease costs, but then you are also paying utilities, you don't have full access to the building. We're a 24/7 operation, so if I want to use that building at night because we're dealing with an incident, I have to pay extra money. That's not what we want to do. In our building, if we

had a snowstorm, we slept in our office; we didn't pay anybody any extra money, we just stayed there. In this building, it's different. We have the other Woodbridge building, and that's great. We've built, as you may know, the Traffic Management Center, which we're talking about having an open house because we've had a lot of legislative interest in it. But we built a statewide Traffic Management Center at the old Highway Authority Building--

SENATOR SCUTARI: You own that building as well?

MS. GUTIERREZ-SCACCETTI: Yes.

SENATOR SCUTARI: Is that empty as well?

MS. GUTIERREZ-SCACCETTI: No; we have built, on one-half of it, the Traffic Management Center, which is a statewide facility that's 24/7 for managing all types of traffic incidents, snow. We house that-- The State Police are there, Turnpike, Parkway, and DOT occupy that facility 24/7. And the other half of the building is occupied by our operations and technology folks, who are housed in that building.

SENATOR SCUTARI: Assemblyman?

ASSEMBLYMAN COUTINHO: A few questions.

MS. GUTIERREZ-SCACCETTI: Sure.

ASSEMBLYMAN COUTINHO: First of all, I think it's clear that I agree that we shouldn't be leasing, we should be in our own building. I'm just curious -- and I don't know if you were there at the time -- when you ended up leasing in Woodbridge, why wasn't the decision made to level and start building a new building at that time?

MS. GUTIERREZ-SCACCETTI: I was there -- I've been at the Turnpike -- I'm in my 22nd year -- but I can't answer that question.

ASSEMBLYMAN COUTINHO: So somebody actually said, “Okay, we’re going to move out and leave this building--“

MS. GUTIERREZ-SCACCETTI: I believe-- I don’t think they did it to just leave the building behind. I believe that there was a true belief there would be interest in purchasing that building by a private developer from the New Brunswick area, because there had been so much development in New Brunswick. I don’t think it was ever anticipated that the building would sit as long as it has. For those of us who worked at the Turnpike, prior to consolidation, honestly, we miss our old building. We didn’t mind that it was old.

SENATOR SCUTARI: But I mean, miss it? It’s a taxpayer boondoggle that you’re paying \$3 million plus utilities a year, and you got an empty space sitting there, when you didn’t have to enter into a 10-year lease; perhaps a 5-year lease, or something less, and you could have already had this project done. I mean, the reason why this comes up is I drive down here, and I see it every time. And I go, “What are they doing over there?” It’s sitting there by itself, empty. And I’ve been there. I was at that building already. And I know Mike LaPolla is two towns over from me, so I saw him somewhere and I asked him about it.

MS. GUTIERREZ-SCACCETTI: And we had talked about it at the time, I know; some of us had talked about the idea of a 5-year lease, and then leveling and rebuilding the building, but I don’t know why that wasn’t entertained. I wish I could tell you, but that’s just not an answer that I have.

ASSEMBLYMAN COUTINHO: The other thing is, if there is an existing office building in there, why would there be significant

environmental cleanup? I mean, it's been an office building, right? Other than maybe some car runoff, or some oil, I don't understand.

MS. GUTIERREZ-SCACCETTI: Well, there was an automotive garage that's underneath there that serviced State Police cars, and there's an underground tank that's there that has to be dealt with. There's cell towers that are there--

ASSEMBLYMAN COUTINHO: That's not significant; that's not--

MS. GUTIERREZ-SCACCETTI: We don't know what else is there.

ASSEMBLYMAN COUTINHO: We don't know what else is there? The State has owned it, correct?

MS. GUTIERREZ-SCACCETTI: There is a period of time when the Turnpike Authority didn't think it was a bad idea to use chromium to manage its green, right? I mean, that's what happened on the North Bay-Hudson County extension. So we've been told we have environmental issues. I mean, there's asbestos issues; we know that that's going take time to go in and deal with the abatement before we take the building down. So I can't tell you what's in the ground, because nobody's been in the ground yet. What we did was simply a feasibility study -- that's what we need preliminary engineering for, to see what's there. But I think you have to assume at some point in time there's going to be some cleanup that comes from that site, simply by virtue of the fact that there's at least one tank that I'm aware of, and simply by the virtue of the fact that they've got to move the cell tower. I don't know what else -- where the generator is from the cell tower, or the generator is for the building. We just need to go

through and do our due diligence to make sure that we understand what the timeline would be. And again, as we relocate Interchange 8, which is where our major central maintenance facility is on the Turnpike, we would like to move those folks into the new building with us. So that's basically why, if we get that building done a little earlier, those folks would be able to move in ahead of those folks at Mack-Cali.

ASSEMBLYMAN COUTINHO: The other thing I would say -- and I would just caution somewhat -- I agree with Ms. Bell. I don't really see a need for a design-build. And I do some work with SDA, and looking at it and some things, I think it's somewhat overrated. And with the proper amount of time, I don't know why you wouldn't be able to do this through normal channels. Specifically, my concern is with design builders: Let's say you have an initial concept, and then all of a sudden things change without being fully vetted, and then people say, "Well, that's not what we had asked for." And because of the design-build process, it ends up you change as you go, and sometimes you reach the finish line and it wasn't what you looked for when you began. If there's emergent circumstances, it does make sense to go ahead with that; but I don't-- Especially here, again, we're talking about an abandoned building? I don't see this being an emergency circumstance. But we should move forward and stop, obviously, leasing when the current lease expires in 2016.

MS. GUTIERREZ-SCACCETTI: Well, that is our plan. And as I said, we do not have design-build legislation, we don't have authority today to go and design-build, and that's why we'll go out with a preliminary engineer and design contract.

SENATOR SCUTARI: I'm going to continue to question this as time goes on.

MS. GUTIERREZ-SCACCETTI: Of course.

SENATOR SCUTARI: Because I drive past it every time I come here.

MS. GUTIERREZ-SCACCETTI: Me, too.

SENATOR SCUTARI: And I think about it. So we're going to continue to monitor it, and see where you guys are, and where you're at, because it seems to be a complete and total waste of taxpayer money that that building is sitting empty and you guys are paying \$3 million a year plus utilities. Wherever that decision was made four years ago, the place sits vacant, four years now, and six more years on the outside. So you've given us some more information, so I appreciate that. It doesn't seem like any way out of your lease to move this forward; so obviously what the Assemblyman said is that the design-build legislation shouldn't make any difference. You have six years--

MS. GUTIERREZ-SCACCETTI: It won't make a difference in this building. We still will pursue it for some of our other projects, like our maintenance districts. It still makes sense for us in other elements of what we do. But we aren't-- As I said, since Commissioner Simpson gave us permission on Tuesday to go ahead and put the RFEOI out for the new building--

SENATOR SCUTARI: The new building at that location?

MS. GUTIERREZ-SCACCETTI: Correct.

SENATOR SCUTARI: And I mean, I think I share your thoughts that if you build it bigger than you need, then there may be some other needs for your department, or the State, or in other areas--

MS. GUTIERREZ-SCACCETTI: We just think that that makes some sense. We thought that that would--

SENATOR SCUTARI: Yes, I agree.

MS. GUTIERREZ-SCACCETTI: We thought that that would make a lot more sense, and it is being designed to, I believe, Silver LEED standard right now. If we can afford to go beyond that, we certainly will. We're looking at that, and that will be part of the preliminary engineering that's done. And then, if you can give us the contact information, or give me the contact of who you would like us to talk to about what your six-year needs might be, if you look out that far, I think that would make a lot of sense for us to at least have a conversation. Our needs will continue to reduce, and that's the direction we've been going in.

SENATOR SCUTARI: How many employees do you have over there in Woodbridge?

MS. GUTIERREZ-SCACCETTI: Probably between the two offices, where we'll bring everybody together, there's probably about 400 people.

SENATOR SCUTARI: All administrative?

MS. GUTIERREZ-SCACCETTI: No, no -- engineers, it's professionals, lawyers, it'll be maintenance staff, maintenance engineers. We'll bring as many folks together as we can.

SENATOR SCUTARI: You understand why this is so--

MS. GUTIERREZ-SCACCETTI: Honestly, Senator, it bothers me. But--

SENATOR SCUTARI: But we're elected.

MS. GUTIERREZ-SCACCETTI: I know.

SENATOR SCUTARI: So it bothers our people.

MS. GUTIERREZ-SCACCETTI: Well, and you know what? And I'm appointed. And it's my responsibility; so it's my responsibility now. And that's why last year I asked if we could at least do a feasibility study. We waste a lot of money renting. And when we're asked to look at our budget, and cut our budget, the first thing I'd love to do is cut the rent, because I never paid rent before. We just never did. We were always in our own building, and we always paid our utilities like everyone else.

SENATOR SCUTARI: I mean, it's kind of like the Governor saying, "You know what? This doesn't fit our needs. Let's lease across the street, and we'll just let this sit vacant over here."

Okay, if there are no other questions, we'll adjourn for today.

MS. GUTIERREZ-SCACCETTI: Is there anyone you would like us to stay in contact with, just for progress?

SENATOR SCUTARI: Mr. MacCalus and Mr. Sutkin.

That's the gentleman right there (gesturing) and that's the gentleman right there.

Thank you very much for coming.

MS. GUTIERREZ-SCACCETTI: Thank you.

SENATOR SCUTARI: And we're adjourned.

MR. MacCALUS: Do we have a motion for adjournment?

ASSEMBLYMAN COUTINHO: So moved.

DEPUTY TREASURER BELL: Second.

MR. MacCALUS: And I have a second. All those in favor?

ALL: Aye.

MR. MacCALUS: Anybody opposed? (no response)

We are adjourned.

(MEETING CONCLUDED)