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has been deprived of receiving a bid from a very well credentialed, the national leading provider of facilities services surveys. I hope that answers your question, Governor.

GOVERNOR HOGAN: Yeah, I guess I'm still trying to understand why you lost all of your appeals at the Board of Contract Appeals and are now coming back to us.

MR. HAMILTON: It's our last remedy. If the Board goes forward with this contract, it moots the appeal. And again, the appeal is so important not only for MGT, but for the precedential issue of whether it should have been excluded in the first place. We think that the legal process should take place.

MR. CARREY-BEAVER: Mr. Secretary, may I address --

GOVERNOR HOGAN: Yes.

MR. CARREY-BEAVER: In the first RFP, when they were found excluded, they actually were told not to submit a proposal and they did submit a proposal. In the second RFP when they were told that they were excluded from competition, they were not told they could not submit a proposal. But they did not submit a proposal the second time, and that's part of the standing issue that the Governor is actually addressing as well. Competition is (indiscernible) and I think the interested party would be certainly affected negatively by not awarding this contract today to get the work done. Because I understand that this is work that's been delayed and needs to go forward.

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COMPTROLLER FRANCHOT: Yeah, well, can I ask a question?

MR. CARREY-BEAVER: Sure.

COMPTROLLER FRANCHOT: I mean, I went to law school. I'm a member of the Bar, but I call myself a public interest lawyer, which means in the public interest I don't practice law. So take my --

(Laughter.)

COMPTROLLER FRANCHOT: But do you have any inclination or any information that somehow the communications that were used by the procurement officer were somehow influenced or in an unethical way by MGT, a very substantial Maryland company? It sounded to me like they were asked to give advice. They were paid for the advice. And they were told after the fact, oh gee, no there's something unethical here.

MR. CARREY-BEAVER: Well there was --

COMPTROLLER FRANCHOT: It doesn't sound to me like there is, but that's what this, you know, procedure of gatekeeping is supposed to prevent, corruption and bid peddling, unfair stuff. Do you have any, do the procurement officers have any scintilla of that?

MR. CARREY-BEAVER: Concerning the law school, I think we went to the same, I went to Northeastern Law School --

COMPTROLLER FRANCHOT: Yes.

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MR. CARREY-BEAVER: -- and I think you did as well. I graduated a little bit later than you, I believe. So I just thought I'd mention that. So I've done public interest work myself.

No the procurement officer for the first procurement was a different procurement officer than the procurement officer for the second procurement. When the whole procurement reform occurred, this issue or this contract was transferred to DGS. And the procurement officer there, a very experienced procurement officer, she actually is a lawyer, who has done this type of work for a long time, took a very careful look at the first RFP and compared it to the second RFP. She actually tried to draft a second RFP so that it would be different and so MGT would be able to compete. And she just could not, and she testified to this, she could not do that. She actually took the 2018 RFP and worked off of that, so they really are the same, it's really the same RFP.

COMPTROLLER FRANCHOT: Well, I understand that. I don't, I'm not criticizing that.

MR. CARREY-BEAVER: Yes.

COMPTROLLER FRANCHOT: I just, it's the whole point is to prevent illegal, unethical, improper influence over the procurement process. Is there any scintilla in the first or second that somehow the company that Mr. Hamilton represents, which has a very long record here in Maryland, did

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something improper? Because that's certainly the giveaway, if in fact this decision is allowed to stand.

MR. CARREY-BEAVER: Yeah, I have seen nothing, no evidence of what you're referencing, Mr. Comptroller. The procurement officer took what she saw in front of her, did a very thorough analysis of the RFP, came to the conclusion you came to. The Board of Contract Appeals reviewed that decision and agreed with her that her decision was reasonable, not arbitrary and capricious. So --

TREASURER KOPP: Well, and Mr. Beaver, could I just, her decision, I gather her decision was that the OSP contract, DGS contract, was the same essentially as the IAC contract?

MR. CARREY-BEAVER: That's right, and that's what the board found as well. Yes.

TREASURER KOPP: And that's why she came to the conclusion there was no way of changing the requirements --

COMPTROLLER FRANCHOT: -- Madam Treasurer, you're a company trying to get business here --

TREASURER KOPP: Yes.

COMPTROLLER FRANCHOT: -- and you have a competition with someone, and all of a sudden you're retained by them to do some kind of a conversation about specifics, and then you're told no, that removes you because

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now there is some kind of a cloud. I mean, what about just a phone call where you call up someone and say, you know, we have a lot of expertise, we're a Maryland company, and is that then, gee, you are influencing something that is, looks bad. No, it doesn't look bad if this is a company that's had two relationships. I assume those relationships sometimes they were consulted for their expert opinion. And I just think this sounds like a point, too fine a point for it to pass the fairness test. That's my sense, just from the conversation I've heard.

And so I would, I would hope that we would not, I hope -- and generally I support the Maryland Board of Contract Appeals, as you know. I've voted repeatedly against contracts that are being protested to them when we haven't heard from them. This one is a little trickier because it's the Circuit Court. But you know, four, four to six months is not that long. And this to me strikes me as an important issue. You know, can, what is it that disqualifies a company from bidding on a State contract? It could be almost anything, under my impression of this thing.

GOVERNOR HOGAN: I think Secretary Churchill wanted to make a comment.

MR. CHURCHILL: And I appreciate the discussion that's going on. I think at the core of this is not the fact (indiscernible), but the process to be able to keep things fair and equitable for all companies was not achieved. And so information from MGT was garnered, but there would be under our processes,

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there would be a process to put that out, that exact question for comment across the industry and take that information and incorporate it into a solicitation. And that's what did not happen. And I think that's at the core of the poisoned fruit. And there is a substantial process that we have to go through to make sure that we can assert that all companies have been treated fairly. And the department, both departments, the client agency and General Services, in an attempt to try to remedy this did try to change the second procurement to be able to remedy the actions from the first procurement. But unfortunately, the program, as identified by the client agency, that's the best program presentation that would do the business of the department in terms of assessments. So we really could not substantially change the second procurement and you have already heard the other comments from the AG's Office and the vendor's counsel.

COMPTROLLER FRANCHOT: Didn't the State create this conflict itself by retaining MGT to give them the benefit of their wisdom?

TREASURER KOPP: (Indiscernible).

COMPTROLLER FRANCHOT: If I could just finish, Madam Treasurer. Then the State turns that very conversation against the company. It just, I find it to be worse than I thought when I first heard the presentations. I mean, it's your fault, right? On your end? That this situation exists.

MR. CHURCHILL: The second procurement was handled by General Services under the new procurement rules. The first procurement was

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handled directly by the agency. And so when the procurement transferred from the client agency to General Services, unfortunately, looking at the entire procurement, which we did, and in consultation with the Attorney General's Office to understand the nuances about what exactly would be required to allow MGT to bid, the decision ended up that the first procurement and the second were essentially the same, very minor changes. And so it was difficult to correct, to correct that.

COMPTROLLER FRANCHOT: Different agencies, Mr. Secretary, different agencies, two different agencies --

MR. CHURCHILL: Yes.

COMPTROLLER FRANCHOT: -- one State of Maryland --

MR. CHURCHILL: Yes.

COMPTROLLER FRANCHOT: -- get too down in the weeds here, but I'll defer to my colleagues.

MR. CARREY-BEAVER: This is Doug Carrey. Can I address the four to six months? I've done a number of these petitions for judicial review. I've never had a decision from the Circuit Court in four to six months. I mean, we're talking more like nine months to a year. That's typically the length of time that I've seen that it's taken me to get a decision from the Circuit Court on a review of an MSBCA decision. So four to six months I think is completely unrealistic.

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TREASURER KOPP: Governor, could I just ask one more question? I'm trying to understand. The original problem was with the potential relationship, or whatever, between MGT and the IAC. Secretary Churchill was not involved in that. Your procurement people were not involved in that. What, was MGT actually retained? The Comptroller assumes they were paid for advice, but was that in fact so? Or was it informal?

MR. CHURCHILL: I'm going to let --

GOVERNOR HOGAN: I don't know who we're answering the question of. I don't have any idea.

TREASURER KOPP: And was MGT told that they may not be, that speaking about it may disqualify them from competition?

MR. HAMILTON: Governor, it's David Hamilton. May I answer that question?

TREASURER KOPP: Well, I'd like to hear from Mr. Gorrell.

GOVERNOR HOGAN: No, I don't think you should.

MR. HAMILTON: All right. Thank you.

GOVERNOR HOGAN: -- probably answer that. Maybe the attorney for the State, or maybe Bob Gorrell, or somebody.

TREASURER KOPP: Mr. Gorrell has gone away?

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MR. GORRELL: No, I'm here. I was waiting for the procurement to determine, or the Office of the Attorney General, if they were going to answer that.

TREASURER KOPP: I'd like to hear from you, if you don't mind.

MR. GORRELL: Yes. No. They were not retained. We were in a, trying to do this quickly. There was a lot of pressure to get the assessment done. We found an agreement, an assessment agreement in Anne Arundel that happened to be MGT that had an interagency clause attached to it. We had wanted to use that, I think it has already been determined. And we agreed that as we looked into it further and we looked at what the scoping was that we required, it was not the same. And we said we can't do this, and we turned around and created an RFP and put it out. And I'm sorry for having put MGT in that position. I did not say anything to them that they would not be able to propose on this. That came later. It wasn't our decision. That was the procurement, and they are the professionals in this. And I respect their wisdom. We operate under the Department of Education. We do not have a procurement office of our own.

TREASURER KOPP: This --

COMPTROLLER FRANCHOT: So nobody told them this would, this conversation would not, would disqualify them from bidding, I take it?

TREASURER KOPP: Did you talk to your attorneys when you did this? No.

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MR. GORRELL: The Interagency Commission does not have an attorney. The Department of Education has an attorney.

TREASURER KOPP: Okay.

MR. GORRELL: And yes, as soon as we recognized that there needed to be discussion on this, as we were putting together the RFP, of course we talked to the attorneys in the Department of Education.

TREASURER KOPP: After the fact.

MR. GORRELL: Yes. They, decisions were made outside of us.

TREASURER KOPP: (Indiscernible).

GOVERNOR HOGAN: (Indiscernible). I'm going to make a motion that we table this item for two weeks from now so that we can gather some more information. Obviously there's a whole lot of questions without a whole lot of answers. But my concern is that, you know, this contract was awarded in May of 2018.

TREASURER KOPP: Right.

GOVERNOR HOGAN: And you know, we delayed this from April so that this, so that MGT could appeal it to the Board of Contract Appeals. And the Board of Contract Appeals has already ruled pretty strongly and now we're coming back again like it's brand new, two years later, more than two years later. I think for us to try to overturn this -- I'm not saying they've been treated

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fairly or that they don't deserve their opportunity to discuss some of these issues.

But if we throw out the bidder who has already won twice --

TREASURER KOPP: Right.

GOVERNOR HOGAN: -- to go back to these guys, then they are going to have a suit against us and they are going to be treated unfairly. So I don't want to make that decision without lots of lawyers giving us good advice. And I, you know, the Board of Contract Appeals is there for that reason and they have already acted. And that's why we have a Circuit Court, and they are going to act. But I'm, I don't feel comfortable with all of these issues, either one, not moving forward today, or saying we're going to put it off for a year. We can't do that. So why don't we get our act together in two weeks and have everybody on this, everybody here that doesn't seem to know what they are doing come back to us in two weeks with all the information that we need. Is there a second to that motion?

TREASURER KOPP: I second that.

SECRETARY GONTRUM: To clarify, Governor, the next meeting is on September 23rd, in three weeks. But --

GOVERNOR HOGAN: All right. Three weeks. Then let's pull this item out of the DGS Agenda and have a separate vote on that to delay it until September whatever the three weeks --

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TREASURER KOPP: And Governor, could I just say to allay concerns of people with whom I have worked for years, I recognize how important this is. We have been waiting for this assessment for about a decade --

GOVERNOR HOGAN: Well, I don't want to wait another year either.

TREASURER KOPP: -- but it's got to be done correctly. You know. And Mr. Gorrell, I'd like to hear a little more about --

GOVERNOR HOGAN: Yes. But I don't think we're getting anywhere today. So I think we probably ought to wait three weeks and come back. I don't want to talk about this all afternoon.

TREASURER KOPP: Right.

COMPTROLLER FRANCHOT: Always happy to support Governor Hogan --

GOVERNOR HOGAN: So that's three-nothing on the motion to move this for three weeks from now, pull it out of the Agenda. Now we're going to move on to Item 44.

COMPTROLLER FRANCHOT: What's that?

GOVERNOR HOGAN: IT, this is the one-year renewal option on the eGovernment Services contract. I know everybody has been working together trying to find a solution to this issue so that we can continue providing these vital services to our citizens and businesses. And so we're going to start off by getting

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an update from the Office of State Procurement, which we all tasked with trying to find a way forward on this issue.

MR. CHURCHILL: And Mike Haifley, the Deputy Chief Procurement Officer for the Office of State Procurement, will address the Board.

SECRETARY GONTRUM: It's my understanding that Robert Gorrell is with Mr. Haifley and is the person who will be, whose camera needs to be turned on for Mr. Haifley to address the Board.

TREASURER KOPP: Robert Gorrell is with Mr. Haifley?

SECRETARY GONTRUM: I'm sorry, Robert Gleason.

MR. CHURCHILL: Robert Gleason, the Chief Procurement --

SECRETARY GONTRUM: Robert Gleason, thank you.

MR. CHURCHILL: Mike, your -- that is Mike Haifley. Your mike is off.

GOVERNOR HOGAN: Mike does not have a mike.

MR. HAIFLEY: Can you hear me now?

GOVERNOR HOGAN: We hear you.

MR. HAIFLEY: Okay. Good morning, Governor, Madam Treasurer, Mr. Comptroller. My name is Michael Haifley. I'm the Deputy Chief Procurement Officer for the Office of State Procurement, Department of General Services.

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At the previous BPW meeting on August 12th, the item requesting the final option for the NICUSA contract was deferred with instructions from the Lieutenant Governor for DGS to take the lead on the replacement contract. And we noted the Board's strong desire for a competitive solution. And since that time, we have formed a group of four stakeholders, consisting of the Department of Information Technology, the State Treasurer's Office, as well as DGS, and we have also recruited the Maryland Department of Transportation Motor Vehicle Administration, and reached out to one other agency who is also a power user, if you will, of the current solution.

The team has already met and developed a path, I believe, that will determine whether or not there is a competitive solution to get to the next generation of this contract. And as you know, I briefed the Board's staff last Wednesday regarding that plan. That briefing is the first of what will be monthly status updates that we will be delivering to them.

During that briefing, a comment regarding the structure of the contract option was raised as it relates to the incorporation by reference to the recently expired contract. This concern was shared with DoIT. The contract was subsequently modified to remove the incorporation by reference language of that earlier contract. And the staff seemed to be satisfied that that issue was resolved. And so now the contract stands alone.

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Speaking to the path forward, specifically there are a few logical steps that need to be taken. And let me emphasize the approach that we are taking is to present the State's business problem, that is the provision of self-funded eGov services, to the business community and ask them for ideas on ways to best solve the problem. We need to be open-minded in our approach and we need to be willing to be flexible, and above all else we need to listen to the market. And again, I've walked your staff through those steps but I can do that again if you desire.

But generally speaking, we need to research what are the other states doing, what is the business community capable of doing, what are the requirements of the State agencies, and what is the framework that any potential solution needs to fit within. We are prepared to do that and have begun those activities. And I think we should have an answer in three to six months and be able to come back to your staff or the Board itself to share those findings and a recommendation on how to move forward if it's the Board's pleasure. And thank you, and if you have any questions I'll try to address them.

GOVERNOR HOGAN: Questions?

TREASURER KOPP: I have a question, Governor. As I understand it, Mr. Haifley, we're talking about the path going forward, not specifically this item for a, that's still a DoIT item. Is that right? For --

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GOVERNOR HOGAN: Okay, three-nothing on DGS. And that
will conclude our Board of Public Works meeting. Thank you all very much. It's
good to see you both. Thank you all for joining us this afternoon. Thank you.

TREASURER KOPP: See you in three weeks.

GOVERNOR HOGAN: We'll see you in three weeks.

(Whereupon, at 11:39 a.m., the meeting was concluded.)