

In The Matter Of:

*PUBLIC EMPLOYEES' BENEFITS PROGRAM BOARD SUBCOMMITTEE
TRANSCRIPT OF PROCEEDINGS*

*ZOOM/TELEPHONIC OPEN MEETING
January 8, 2021*

*Capitol Reporters
628 E. John St # 3
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775 882-5322*

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1 PUBLIC EMPLOYEES' BENEFITS PROGRAM BOARD SUBCOMMITTEE

2 TRANSCRIPT OF PROCEEDINGS

3 ZOOM/TELEPHONIC OPEN MEETING

4 THURSDAY, JANUARY 8, 2021

5 CARSON CITY AND LAS VEGAS, NEVADA

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8 The Board: LAURA FREED - Chair
9 Betsy AIELLO - Member
10 TIM LINDLEY - Member
MICHELLE KELLEY Member

11 For the Board: BRANDEE MOONEYHAN
Deputy Attorney General

12 For Staff: LAURA RICH
13 Executive Officer
WENDI LUNZ
14 Executive Assistant
CARI EATON
15 Chief Financial Officer
MICHELLE WEYLAND
16 Administrative Services Officer

17
18
19
20
21 Reported by: CAPITOL REPORTERS
22 Certified Shorthand Reporters
BY: KATHY JACKSON
23 Nevada CCR #402
123 W. Nye Lane, Suite 107
24 Carson City, Nevada 89703
(775) 882-5322

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Public comment will be taken during this agenda item. No action may be taken on any matter raised under this item unless the matter is included on a future agenda as an item on which action may be taken. Persons making public comments to the Board will be taken under advisement but will not be answered during the meeting. Comments may be limited to three minutes per person at the discretion of the chairperson. Additional three minute comment periods may be allowed on individual agenda items at the discretion of the chairperson. These additional comment periods shall be limited to comments relevant to the agenda item under consideration by the Board. Persons making public comment need to state and spell their name for the record at the beginning of their testimony.	
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1 THURSDAY, JANUARY 8, 2021, CARSON CITY, NEVADA

2 -oOo-

3 CHAIRWOMAN FREED: Okay. Good afternoon
4 everyone. This is Laura Freed, Chair of the Public
5 Employees' Benefits Program, and it is 1:04, And I would like
6 to call this subcommittee meeting to order.

7 With that I will ask PEBP staff to call the roll.

8 MS. LUNZ: Wendi Lunz for the record.

9 I'll begin the roll with Laura Freed.

10 CHAIRWOMAN FREED: Present.

11 MS. LUNZ: Betsy Aiello?

12 MEMBER AIELLO: Present.

13 MS. LUNZ: Michelle Kelley?

14 MEMBER KELLEY: Here.

15 MS. LUNZ: Tim Lindley?

16 MEMBER LINDLEY: Here.

17 MS. LUNZ: We have a quorum.

18 CHAIRWOMAN FREED: Okay. Thank you. Laura Freed
19 for the record again, and now it's Agenda Item Two, public
20 comment. So, again, I'll turn it over to PEBP staff.

21 MR. CARROLL: Good afternoon. As a reminder, the
22 Zoom is for public comment only. This meeting is streaming
23 live on YouTube. To listen to the PEBP Board meeting, excuse
24 me, the subcommittee meeting here please access the YouTube
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1 link that's located on the agenda.

2 For those of you that have joined for public
3 comment I'll read the last three digits of the phone number
4 or the name and I'll now announce that you have now joined
5 the meeting and are muted. Please slowly state and spell
6 your name for the record and proceed with your comments.
7 Thank you.

8 837, your line is unmuted. As a reminder please
9 state your name slowly. Spell it for the record and a
10 reminder press star 6 to unmute your line. You may proceed.

11 MR. ERVIN: Hello. This is Kent Ervin,
12 E-r-v-i-n. Can you hear me?

13 THE CLERK: Yes, we can.

14 MR. ERVIN: Thank you. This is Kent Ervin,
15 E-r-v-i-n, state vice president of the Nevada Faculty
16 Alliance with public comment for the record.

17 The subcommittee's task is to address the very
18 serious concerns from the legislative audit regarding PEBP's
19 contract management practices. The changes in the draft
20 policies documents for today simply do not go far enough. To
21 satisfy the legislative mandates the Board as a whole and the
22 Board members individually must take a much more active role
23 in the development of RFP's, the proposal evaluation process
24 and the approvals of contracts.

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1 The changes from Senate Bill 502 in 2017 that
2 resulted in NRS 287.04345 give PEBP and the Board tools you
3 need to manage and oversee your contracts as an open meeting
4 body while also maintaining the strict confidentiality rule
5 that are required by state purchasing and NRS 333 and NAC
6 333.

7 For all procurements the Board should review and
8 review the scopes of work and the evaluation period before a
9 request for proposal is issued. This is fully allowed at an
10 open meeting because all vendors have an equal chance to
11 listen to the Board's deliberations about its desires for the
12 services. In fact, the open discussion of the scope of work
13 advances the goals of receiving proposals that meet PEBP's
14 expectation and for open competition.

15 For all major contracts for services that affect
16 participants directly and for actuarial services and for any
17 contract above some threshold dollar amount it should be
18 required for one or more PEBP Board members to serve on the
19 evaluation committee. That's really part of the duty of the
20 Board. The legislative audit specifically called out the
21 Board for being too far detached from the evaluation process.
22 The NRS 333.335 requires that the highest scoring vendor from
23 the evaluation committees for review of proposals can be the
24 only one awarded the contract unless negotiations fail.

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1 NRS 287.04345 outline the process but this
2 document needs to have more detail. Before the notice of
3 intent to award a contract per Nevada Administrative Code
4 333.170 the 287.04345 statute subsection 4 requires that the
5 PEBP Board meet in a closed session to review the results of
6 the evaluation committee. This step is not optional from a
7 plain reading of the statute.

8 The purpose of this closed meeting is to receive
9 a confidential report from the evaluation committee since all
10 information for proposals is confidential up and until the
11 final contract is issued and for the Board to determine
12 whether to issue a notice of intent to award the contract to
13 the highest scoring vendor.

14 The closed meeting allows the Board to do its due
15 diligence as chief of the using agency to determine if the
16 evaluation was properly conducted.

17 The other two options per 287.04345 subsection 5
18 are to cancel the RFP or reissue a modified RFP. Those
19 options will be rarely used but could be appropriate and
20 necessary if the evaluation was improper, if no vendor offer
21 the services required by PEBP or the cost of the highest
22 scoring vendor is simply unaffordable.

23 The closed meeting also allows the Board to give
24 direction to PEBP staff on negotiation of the contract with
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1 the selected highest scoring vendor. After the closed
2 meeting per NRS 287.04345 subsection 5 the Board then meets
3 in open session to act to issue the notice of intent to award
4 the contract.

5 At that point PEBP staff could take over and
6 negotiate the contract and complete the remainder of the
7 process if there are no significant changes to the terms of
8 the contract upon negotiation. All of this should be
9 outlined in a policy document.

10 There are also a number of other areas where the
11 policy's manual is vague or ambiguous or uses jargon to like
12 plan design and rate-setting policies. These all need to be
13 clear and transparent, especially the rate-setting
14 methodology. The new Board member, new PEBP executive
15 officer or third party should be able to reproduce the plan
16 design and the rates based on information in the manual.

17 To do this, amendments to the policy manual
18 should be the primary way the policy and plan changes are
19 done rather than using the manual to document them
20 incompletely after the Board decisions.

21 Thank you for the opportunity to comment, and
22 thank you for the consideration of these issues, and thank
23 you for the work on the subcommittee.

24 THE CLERK: Madam chair, that is all for public
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1 comment.

2 CHAIRWOMAN FREED: Okay. So with that we'll move
3 to Agenda Item Three, approval of the action minutes from the
4 subcommittee's December 11, 2020 meeting.

5 Subcommittee members, I hope you had a chance to
6 review the extremely extensive action minutes and let me know
7 if you see any changes that you think need to be made and if
8 not I would accept a motion to approve.

9 MEMBER KELLEY: I'll make that motion. Michelle
10 Kelley for the record.

11 CHAIRWOMAN FREED: Thank you very much. Do I
12 have second.

13 MEMBER AIELLO: I can second it. This is Betsy.

14 CHAIRWOMAN FREED: Thank you.

15 All in favor say aye.

16 (The vote was unanimously in favor of the
17 motion.)

18 CHAIRWOMAN FREED: Motion carries unanimously.
19 Thank you.

20 Agenda Item Four, discussion and possible action
21 on changes to Board policies and procedures related to PEBP's
22 corrective action plan submitted to the LCB Audit Division.

23 Okay. I'll turn 4.1 over to Executive Officer
24 Rich and she can walk us through the red line version of the
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1 Board policies and procedures. And, subcommittee members, I
2 think feel free to ask any questions because I know I myself
3 made some notes as I was reviewing it. So with that go
4 ahead.

5 MS. RICH: All right. For the record Laura Rich.
6 So, you know, I wasn't prepared to walk through every single
7 one of them because there are quite a few.

8 CHAIRWOMAN FREED: I think -- I'm sorry. This is
9 Laura Freed again.

10 I think I mean, you know, we have seen the red
11 line based on the plan design changes that have been made at
12 past Board meetings. I was referring specifically to the
13 contract process and guidance changes but anyway.

14 MS. RICH: So let me start off with first
15 thanking our contract manager who is participating on this --
16 on this meeting, Ms. Michelle Weyland, Weyland, I don't know
17 how to say your name, Michelle. Your last name, how do you
18 say it? She's on.

19 MS. WEYLAND: Weyland.

20 MS. RICH: Okay. I wanted to thank her because
21 she's put in the majority of the work. She sat in on the
22 Board meeting last time and -- and listened to what the Board
23 members had to say and went through and plugged in a lot of
24 what the comments were.

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1 So this is essentially our first stab at what --
2 what we thought or what we interpreted as staff that the
3 Board wanted to insert in these documents. Now, if we want
4 to go any further into detail, if there's anything that the
5 Board members, you know, want us to elaborate on or that, you
6 know, feel that need to be -- that needs to be maybe
7 clarified any, in more in depth, anything like that we're
8 happy to do that. This was our first stab based on the
9 comments that were made at the last Board meeting.

10 So as Chair Freed said, scrolling through here
11 there were a lot of changes. There were already a lot of red
12 lines that were included in the Board policies and procedures
13 based on the prior decisions that were made by the Board. So
14 we're just adding hereto. There was also a little bit of
15 cleanup work that was done too.

16 So I'm going to scroll down to it looks like the
17 contracts portion on page ten. So there was some clarifying
18 language here on the procurement process. We added the
19 executive officer shall solicit the participation of Board
20 members to participate in the development of a solicitation
21 as well as serve on the committee as an evaluator. We worded
22 it that way because, as was discussed, we will give Board
23 members the opportunity to participate. However, if, you
24 know, if there -- we don't know -- we don't necessarily want

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1 to make it a must.

2 We also added that the executive officer shall
3 ensure the accurate and detailed information is provided to
4 the Board and other governing bodies when seeking to amend
5 contracts and supporting documentation shall be provided. So
6 that's in I believe in 4.2, 4.3. There's some checklists
7 that we've included here for discussion. We will also go
8 into detail on those as well, but for the most part, again,
9 we can -- we can amend those, edit those however the Board
10 sees fit.

11 Again, on section four we added the appropriate
12 checklist. On five, the Board shall review all documentation
13 to ensure justification for the recommended action or actions
14 and validation, recommendations by PEBP management. Again,
15 that will be provided as part of that checklist.

16 We added on a section eight, the Board shall
17 oversee significant scope modifications and ensure a
18 competitive bid process as follows but not limited to changes
19 and scope of the competition, changes that were not within
20 the contemplation of the parties when the original contract
21 was entered, changes that materially -- materially alters the
22 contract, changes in the functions of the item of the type of
23 work, changes in the quantity of major items a portion of the
24 work and historically procured services under a separate

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1 contract.

2 So I think the best way to do it actually here is
3 to take it in chunks. So let me finish this one up and then
4 we'll stop and discuss the amendments as well so that we
5 added an amendment portion there where the Board shall review
6 and discuss all contract extensions and ensure extensions
7 receive all required approvals, including the solicitation
8 waivers, appropriate justification and documentation. And
9 the executive officer shall provide checklists to the Board
10 in order to assist the Board in their evaluation to the
11 amendment.

12 So we'll stop right there and see if there's any
13 discussion or input from the subcommittee on this as far as
14 what staff has provided or included in this or if we should
15 go into -- if the Board wishes to go into more detail I'll
16 open it up for discussion.

17 MEMBER KELLEY: It's Michelle here. Before we
18 even get into that can we go all the way back to part A,
19 Board responsibilities, where you guys did make an edit, 6.7,
20 and you're referring in your edit to NRS 333.304 which when
21 you actually go and look at that it's talking about acts of
22 God. I actually think it's meant to be 333.335, which is the
23 evaluation of proposals. Is that right or did you mean to be
24 referring to acts of God?

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1 MS. RICH: I think you're right. That was --
2 that's a good catch. Thank you. We will change that to
3 section five.

4 MEMBER KELLEY: Okay. Thank you.

5 MEMBER AIELLO: This is Betsy.

6 I had a couple of questions on the NRS section
7 too. I was confused about NRS 287.043 and then the three.
8 It didn't seem to be one that we needed in here, and then it
9 appeared to me that NRS 287.043 2G should probably be in
10 there. And I'll open up my NRS if you want so -- because I
11 didn't write anymore than those, just those in my notes. But
12 I'm wondering if, again, maybe we --

13 CHAIRWOMAN FREED: This is -- this is -- sorry,
14 Betsy. This is Laura Freed.

15 I agree with you that that two -- sorry, 287.043
16 section 2G, investigate and approve or disapprove any
17 contract proposed pursuant to 287.0479 would be one of the
18 authorities that would be added here.

19 MS. RICH: Okay. So I made a note of that one.
20 That's easy to add.

21 MEMBER AIELLO: I'm wondering if someone wants to
22 look at the 287.043 and then the bracket three to see if it
23 makes sense to be in there.

24 MS. RICH: Betsy, I'm pulling it up right now.
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1 MEMBER AIELLO: I don't have as many screens at
2 home as I did when I was working.

3 CHAIRWOMAN FREED: Right, I know. It's hard to
4 do this from home when you're looking at the same screen. So
5 287 -- sorry. This is Laura Freed for the record.

6 287.043 section three, the Board may use any
7 services provided to state agencies and shall use the
8 services of the purchasing division of the department of
9 administration to establish and carry out the program. Yeah,
10 I think that belongs there. I open counter-arguments though.

11 MEMBER AIELLO: I'm good with that. No, I'm good
12 with that. I'm fine. I just wanted to get people's opinions
13 and then, again, the one that you agreed should be added I
14 think should be.

15 CHAIRWOMAN FREED: This is Laura Freed again.

16 I had a question about a note to myself as I was
17 going through this. The new section A7 there on page four
18 says be responsible for PEBP contracting activities in
19 accordance with all of these statutes.

20 What does be responsible exactly mean? I think,
21 you know, to the -- to Mr. Ervin's comment under public
22 comment about what -- what goes far enough, how do you strike
23 the balance between providing oversight and being
24 responsible. We are absolutely legally responsible for the
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1 fiduciary running of the program.

2 But I was wondering about that word choice, and I
3 was trying to think of something I might suggest that is --
4 that connotes conscientious oversight somehow. Anyway, I'm
5 just throwing that out there as a comment.

6 MS. RICH: Actually, you took the words out of my
7 mouth. I was going to say conscientious oversight instead of
8 responsibility, so.

9 MEMBER KELLEY: So I guess I'm trying to
10 understand what your, by changing that. So are you trying to
11 say that the Board is not responsible for purchasing things
12 and contracting others?

13 CHAIRWOMAN FREED: No, I'm not, but be
14 responsible is suggestive of us carrying out purchasing
15 duties that all of us don't have time to do because we have
16 other jobs.

17 MEMBER LINDLEY: Tim here.

18 I think we're looking for perhaps a synonym or
19 something relative to that. Am I correct?

20 CHAIRWOMAN FREED: Yeah. I mean, you know, how
21 do we -- how do we provide careful input and feedback and
22 oversight to PEBP staff while not getting, you know,
23 committing ourselves to huge amounts of time. I mean the
24 Board, unless the rest of the Board has lots of free time

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1 that, frankly, the Chair doesn't have.

2 MEMBER LINDLEY: Tim here.

3 I would say maybe surveil and inspect.

4 MEMBER KELLEY: I guess -- it's Michelle here.

5 I guess I'm on record so I'm just going to be
6 consistent. You know, a large part of what this Board does
7 is plan design and contracting. And so I do think that, you
8 know, and that is what we're tasked with. So I guess I don't
9 really -- if you go through the rest of the document it's
10 giving us, you know, we're doing our duties once the blanks
11 are filled in. So I guess I'm just being responsible. I
12 mean, ultimately aren't we responsible as fiduciaries to the
13 program?

14 MEMBER AIELLO: So this is Betsy.

15 And I'm just going to give kind of -- I'm just
16 thinking out loud here. But like when you have a CEO or the
17 agency administrator in our program they were ultimately
18 responsible for the division or the department but it didn't
19 mean that that person hands-on did everything because that's
20 not possible.

21 So I see the Board as that kind of person, a
22 little bit like along side Laura Rich, but Laura doesn't go
23 to every single one of the eval committees, and I know a
24 Board member could be on, but I don't want to inadvertently,
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1 again, because we don't -- we'll all -- some of us would
2 probably end up resigning because we can't run the whole
3 program, and we can't -- so we have to have some oversight
4 but some of it we have to trust some of the state processes
5 that are set up too.

6 So I think we have to find out a word on how
7 to -- how to say that or do that without us having to take on
8 the actual activity ourselves because good leadership
9 delegation and trust and processes is part of good
10 leadership. And I -- I don't know if I'm making sense, but I
11 don't want to get concerned about the Board (technical
12 difficulty.)

13 MEMBER KELLEY: I mean the definition of
14 responsibility is the state or fact of having a duty to deal
15 with something or having control over someone. The state or
16 fact of being accountable or to blame, and isn't that what
17 the legislative bureau ordered, actually found was that we
18 were responsible and i.e. to blame for not having enough
19 oversight.

20 So I guess -- I guess I think responsibility is
21 the right word and then, of course, the detail flows from
22 that, and that's what we're talking about today, right, is
23 kind of how do we -- how do we exercise that responsibility,
24 and that is by delegation and by various other things. So I

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1 guess maybe we're talking tomatoes tomatoes here. It sounds
2 like we all agree that the Board isn't doing all of the work,
3 the devil is in the word.

4 I would also hate to put in a word that in two
5 years time is misconstrued as the Board once again not having
6 any input into our fees and contracting and you end up in a
7 certain situation, you know, in five years down the track
8 because things have changed and -- and, you know, people
9 change, so.

10 CHAIRWOMAN FREED: Okay. This is Laura Freed.

11 We can leave be responsible, but I would like to
12 put on the record that that does not necessarily mean that I
13 have the bandwidth to serve on every RFP committee there is.

14 So moving on, the next page, page five, I know
15 this gets off from the purchasing part of the audit findings.

16 MEMBER AIELLO: And, Laura, may I just.

17 CHAIRWOMAN FREED: Yeah.

18 MEMBER AIELLO: I'm still back on that. I'm
19 reading the NRS and, of course, this was in relation to the
20 executive officer but it also is kind of in relation to
21 everything we do. Board powers, we can delegate some of the
22 powers. I wonder if we want to add an extra sentence in
23 there that we're responsible for the oversight and duties may
24 be completed through appropriate delegation. I don't know,
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1 but instead of just having one word, if one word is hard,
2 it's either -- it may be interpreted to be too much or too
3 little. I wonder if a few more words or sentences, if
4 someone might be able to word some of that. Just throwing
5 that out. I'm looking at the one NRS, but I could look
6 through it more, the line.

7 MEMBER LINDLEY: Tim here.

8 I like Betsy's input.

9 CHAIRWOMAN FREED: Are you volunteering to do
10 that or are you asking Ms. Rich to do that?

11 MEMBER LINDLEY: Ms. Rich, can you word it?

12 MEMBER AIELLO: I didn't catch what you said,
13 Tim, but I would be willing to brainstorm with Michelle if we
14 can ask them to go back and then if she wanted to call me we
15 might be able to work together to come up with some added
16 words so that our concern of responsibility -- again, with
17 all legislation intent is what and a lot of times people look
18 back around the debate on -- on an issue to come up with what
19 the intent actually was. Maybe we can -- can review it a
20 little bit more to come up with an intent that would be
21 comfortable because, again, it would be scary to be serving
22 on a board where we're expected to run the agency.

23 CHAIRWOMAN FREED: This is Laura.

24 Yeah, you and Michelle could absolutely have an
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1 off-line conversation, but you would have to keep it to that
2 only and not talk to anybody else because of the open meeting
3 law. And I see Ms. Mooneyhan sort of nodding at me. So as
4 long as you're mindful of the open meeting law, sure.

5 MEMBER KELLEY: Before we do that, I mean, would
6 just by throwing in be responsible for the oversight of
7 PEBP's contracting activities would that satisfy everybody?
8 Be responsible for the oversight of PEBP's contracting
9 activities.

10 MEMBER AIELLO: I think that sounds better to me
11 already. So maybe you've already --

12 MEMBER KELLEY: In there --

13 MEMBER AIELLO: Yeah, you, might have already
14 wordsmithed it.

15 CHAIRWOMAN FREED: Yeah, no. This is Laura.
16 I agree that's an improvement, yes.

17 MEMBER AIELLO: Okay. This is Betsy.

18 I don't know if we're going to as an overall
19 thing vote in line by line or whatever. I know we've thrown
20 some NRS changes to it or how we want to run that, but I'm
21 comfortable with Michelle's suggestion. So I'll just state
22 that.

23 CHAIRWOMAN FREED: Okay. That's a good question.
24 I honestly hadn't thought about whether we would take a
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1 motion line by line. That seems awfully tedious to me. So
2 let me think on that as we talk through it and take any
3 suggestions that staff has.

4 MS. RICH: And Brandee may want to weigh in on
5 this but ultimately the Board would have to approve this.
6 The entire Board would have to approve this, and so I think
7 this is just a recommendation. I don't know if it's
8 something that would need to be voted on at this level.

9 Brandee, I don't know if you want to way weigh
10 in.

11 MS. MOONEYHAN: Yeah, it's not necessary for the
12 subcommittee to vote. If you reach kind of a consensus of
13 what the recommendations that you want to make to the overall
14 Board you can definitely can take a vote if you want to just
15 to make it more clear if there's -- if there's one issue
16 comes down to something like that. But otherwise if everyone
17 kind of comes to a consensus and agrees this is what the
18 recommendation they want to make to the big Board that would
19 be fine.

20 CHAIRWOMAN FREED: Okay. This is Laura Freed.

21 Thank you for that. Good to know.

22 With that can I quickly return to a suggestion on
23 page five. On number eight, not obligate expenses on behalf
24 of the agency without following state law, I was going to say

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1 law, regulation and policy and agency procedures because
2 policy incorporates the state administrative manual.

3 MEMBER AIELLO: That sounds good to me. I don't
4 know if you want people to pipe in or not.

5 CHAIRWOMAN FREED: I do actually. You know, when
6 any one of us has a question or suggested change I didn't
7 want this to be like a big formal Board meeting. I just --
8 you know, because there's probably still, you know,
9 note-taking and recording, state your name for the record and
10 then just jump right in with your feelings.

11 MEMBER LINDLEY: Tim here.

12 What is your position on the Oxford comma?

13 CHAIRWOMAN FREED: This is Laura.

14 I'm a fan of it. Thank you for asking, Tim.

15 MEMBER LINDLEY: Okay. So where would commas
16 come in because keeping a lot of and's.

17 CHAIRWOMAN FREED: It is. State law comma
18 regulations comma policy comma and agency procedures.

19 MEMBER LINDLEY: Thank you, yeah.

20 CHAIRWOMAN FREED: Okay. There you go.

21 MEMBER LINDLEY: I'm a fan of the Oxford comma.

22 MEMBER KELLEY: That works for me too.

23 CHAIRWOMAN FREED: Okay. My next question on --
24 under the contract section on page ten is there shall be a
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1 standing open item on the Board meeting agenda to review the
2 status of current contracts and RFP's. That's something we
3 talked about last time, and I think it's a good idea. What
4 does standing open item mean as opposed to standing item?

5 MS. RICH: Honestly I don't think there's any
6 difference. We can take the word open out.

7 CHAIRWOMAN FREED: Okay. It wouldn't be the
8 first time I've been accused of being panic about something,
9 okay.

10 Also, again, for the record Laura Freed. Oh,
11 somebody else.

12 MEMBER AIELLO: I was just going to say I had a
13 comment on that same section. It seems like that sentence
14 should be number two underneath the links that were put in
15 because the links then just pop out of nothing, and I think
16 they were related to sentence one. So just my -- I'm not
17 changing anything, but I think it should be like, one, the
18 purpose of this policy is to establish in accordance with and
19 then the links that show what it's in accordance with. Then
20 number two, there shall be a standing open item I believe
21 would be better formatting.

22 CHAIRWOMAN FREED: I agree with that. Under
23 procurement process, B2A the Board delegates the role as
24 chief of the using agency to the executive officer for
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1 administrative contracts, i.e. I don't know if i.e. or e.g.
2 is correct here but we'll go with it, auditors, leases,
3 website management, et cetera. I think the next thing should
4 probably be a B though, the executive officer shall solicit
5 the participation of Board members to participate in the
6 development of a solicitation, as well as serve on the
7 committee as an evaluator.

8 Subcommittee members, do you want to strengthen
9 that to say on all contracts or just substantive contracts?
10 I'm using substantive here as the antonym of administrative
11 contracts. That might not be the right word either.

12 MEMBER KELLEY: Yeah. I was going to say --
13 Michelle here.

14 If you put substantive in there you're going to
15 have to define which ones are substantive and which ones
16 aren't.

17 CHAIRWOMAN FREED: Sure, absolutely. So should
18 we get further into saying -- I mean, I was thinking, you
19 know, based on commentary from last time I was thinking that,
20 you know, Board members, you know, there should be something
21 like Board members shall make every effort to serve on a
22 substantive evaluation committee.

23 MEMBER AIELLO: And this is Betsy.

24 I agree with that but I think that executive
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1 officer could solicit the participation for all of the
2 contracts the Board members would make an effort.

3 And then I'm wondering because if a contract has
4 to go to an evaluation committee is that not a substantive
5 contract because I thought that contracts less than a certain
6 amount of money or --

7 CHAIRWOMAN FREED: Uh-huh.

8 MEMBER AIELLO: -- with a lesser scope don't have
9 to go. So in other words has NRS or purchasing or state law,
10 now I realize that I think the amount when I was there and
11 it's probably the same was 25,000, and so when the NRS was
12 written 25,000 might have been a lot. And over the years
13 would that not be changed, it may no longer be substantive,
14 but my understanding was that the state NRS and purchasing
15 department had drawn a line of what is substantive and
16 whatnot.

17 And then I don't know if we can make a different
18 line. And since, Laura, you're the head of that area maybe,
19 I know we're past it this legislative session and I don't
20 know if anyone has taken a run to change that. But I bet you
21 if it got changed most agencies would probably come and kiss
22 you personally which you might not want.

23 CHAIRWOMAN FREED: This is Laura.

24 The law about -- about the 100,000 dollar
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1 threshold for purchasing to run the RFP has not changed, the
2 \$25,000 --

3 MEMBER AIELLO: I'm so glad it's 100,000. I
4 probably felt like we had to do so many I probably made up 25
5 in my mind.

6 CHAIRWOMAN FREED: You didn't though. It's still
7 informal solicitations as opposed to formal solicitations
8 that threshold is -- it's either 25 or 50, and I have to look
9 it up, and maybe Ms. Weyland knows off the top of her head.

10 MEMBER AIELLO: Would that not be the definition
11 of substantive?

12 CHAIRWOMAN FREED: We can absolutely employ that.
13 Anything that's greater than 25 or \$50,000 a year is by
14 definition for the Board oversight purpose substantive. But,
15 you know, again, we might, I don't know, it depends on how
16 much the PEBP pays for website management that it could
17 easily be over \$25,000 a year.

18 MEMBER AIELLO: Yeah.

19 CHAIRWOMAN FREED: You know.

20 MEMBER AIELLO: So maybe -- maybe this point is,
21 you know, nothing other than I was -- I think it will be hard
22 to make a definition that's not in line with the state
23 definition but maybe we can.

24 MEMBER KELLEY: So I'm wondering if on A we could
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1 add the word routine before administrative contracts. So it
2 would read the Board delegates the role as chief of the using
3 agency to the executive officer for routine administrative
4 contracts, e.g. ordered as leases.

5 I did have some concerns about the website
6 management because, of course, PEBP uses multiple websites.
7 I believe this is referring to your own PEBP website but it
8 could be misconstrued as being the eligibility system that
9 people use. Like so website is actually potentially a deep
10 hole because there's some big money that goes into the
11 eligibility system and whatever that system is that you use
12 to sign up for all the benefits now, the on-line enrollment
13 system.

14 So we'll -- so I think routine and under a
15 certain dollar threshold, you know, maybe -- maybe that
16 25,000 is the appropriate level. I'm not sure how many
17 other -- I don't think there's many other contracts less than
18 that anyway. But for me I guess the substantive contracts
19 are ones that impact our participants, right, regardless of
20 what they are worth or whether they are worth 300,000 or, you
21 know, 3,000,000.

22 If it's going to have an impact on our
23 participants then I -- I want to understand what is happening
24 with that contract, maybe not be on the evaluation committee
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1 but certainly have a good knowledge of what is going on so
2 that we can discuss it at Board meetings and stuff, so.

3 MS. RICH: This is Laura Rich.

4 Can I just jump in and maybe provide some
5 insight. And it's funny you guys are talking about the
6 website because that's actually something that's going to be
7 coming to the Board in January. That is one of the
8 solicitations that we're going to look at, and it is under
9 \$25,000. So it's going to be an informal solicitation.
10 There won't be an evaluation committee. It's, basically what
11 that entails is getting some quotes and -- and finding the
12 best deal, you know, based on those quotes.

13 So I don't think the Board members would want to
14 be involved in that process at all. That is much into the
15 weeds. However, the Board would still likely be interested
16 in knowing about that contract and knowing about what it is
17 that the -- that staff -- what steps staff took and if they
18 were appropriate.

19 And so I think that participating in that is
20 maybe something that the Board members, that that would be a
21 threshold, that \$25,000 would be a threshold that maybe a
22 Board member would not be necessary in that solicitation
23 process but would still want to know about the process and
24 what steps were taken and so and that is part of that

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1 checklist. Does that make sense?

2 MEMBER KELLEY: So it does to me. From the
3 language that's in this policy would it be appropriate or
4 would it be wrong to put PEB, PEBP website management as
5 opposed to kind of, you know, as to say there's eligibility
6 systems and stuff which are also websites, right?

7 So I just, I agree, \$25,000 and, yes, the staff
8 are going to be in the best place. So I agree with
9 everything you said. I'm just sorry. My mind is focused on
10 the language. So it might be appropriate to add PEBP in
11 front of that website or is that -- I don't know.

12 MEMBER AIELLO: It's I think eligibility website
13 is a component of a much larger contract. So I'm not sure
14 that that would be even termed a website contract. It's an
15 eligibility contract.

16 CHAIRWOMAN FREED: Correct.

17 MEMBER AIELLO: That has a component of a website
18 to get eligibility done. So it might, probably isn't thought
19 of as a website contract. I may be wrong.

20 MEMBER KELLEY: Yeah, this says website
21 management. So to me that's all of the websites PEBP uses.
22 That's what -- you know, website management. Anyway, you
23 know, if everyone else doesn't agree then that's fine.

24 MEMBER AIELLO: I'm not objectionable to put PEBP
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1 but then would that, because it says et cetera then there may
2 be still some play to do more if they, you know.

3 MEMBER LINDLEY: Tim here.

4 How many administrative contracts do we have?

5 MEMBER KELLEY: I looked at the list that Laura
6 had provided us I think early, during our orientation and I
7 think actually the website was the only one that was kind of
8 de minimis, if you will.

9 MS. RICH: Correct. This is Laura Rich.

10 Correct. However, in my time at PEBP I can think
11 of another solicitation we -- we did for a more of like an
12 internal audit of our IT system several years ago and -- and
13 that was under \$25,000 as well. So, I mean, there are times
14 that we do have those come up, but right now the one I can
15 think of is just the KPS3 website management.

16 MEMBER KELLEY: So I guess that's a really good
17 question. So contracts are well and good, right. So for
18 example in that example you just gave us, Laura, I'm just
19 wondering, that would have required extra administrative
20 money, right, to pay that vendor, so money that wasn't
21 budgeted. So isn't that another avenue where things would
22 have to come to the Board anyway for approval to expend the
23 funds?

24 MS. RICH: So this is Laura Rich.
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1 Correct. So any of these contracts regardless of
2 dollar amount it would be something that would go through the
3 Board, and so that what -- the point I was trying to make
4 earlier was that in the -- in these situations there wouldn't
5 be an evaluation committee.

6 The Board probably doesn't want to be included in
7 going out and getting -- getting estimates or bids on some of
8 these low dollar contracts. You know, I don't think
9 Ms. Kelley wants to reach out to -- to website management
10 companies to see, you know, if they are going to pay -- if
11 they are going to charge us \$60 or \$70 or \$80 a month. It's
12 more of an operational type contract.

13 But that contract would still come to the Board
14 as you're going to see in January. It would still come to
15 the Board for approval for us to solicit and move forward
16 with a solicitation regardless of what kind of solicitation
17 that is.

18 MEMBER KELLEY: So should we just put in the
19 25,000? Is that kind of what you're a proponent of, Laura
20 Rich?

21 MEMBER AIELLO: And I don't know, I'm going to
22 throw out a couple of other type of contracts that maybe PEBP
23 doesn't have right now but could easily have as temporary
24 contracts, and we might want to know about the concept or the
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1 need but we don't know how much because it's really
2 operations.

3 When new computer programs came in, I mean, I'm
4 really aging myself, but when I started Medicaid not
5 everybody had a computer on their desk, and so there was
6 contracting for Word training and Excel training and Access
7 training. And then there was another contract we had when at
8 one time we had done an employee satisfaction survey and felt
9 like there was a lot of distrust of management for some
10 reason, I don't know, but UNR provided, the business school
11 provided some team-building training and evaluation with the
12 staff, and so we might want to be aware of some of that.

13 And but I don't know if we want to be super
14 involved in those kind of things. Those kind of things we
15 have to trust the executive program director to know what she
16 needs to do to make her program effective, but those are some
17 that could fall in this kind of thing too.

18 CHAIRWOMAN FREED: This is Laura Freed.

19 The other -- the other thing we could do, I mean,
20 as Michelle Kelley pointed out from this list of contracts
21 that PEBP has right now very few of them are actually that
22 small dollar. Most of them are well over that 100,000 dollar
23 threshold where purchasing has to run the RFP per NRS 333.

24 So we could put in 2B there that, you know, the
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1 executive officer shall solicit the participation and Board
2 members to participate in the development of a solicitation,
3 as well as serve on the committee as an evaluator for all
4 contracts over \$100,000 and then throw in a cite to NRS
5 333.130 or something like that. I can't remember
6 specifically where it is. So because that -- that catches
7 almost everything of policy significance to the PEPP
8 participant base in my view.

9 MEMBER AIELLO: That would mean probably that we
10 would then be in with the auditors. I don't know how much
11 the auditors are paid in PEPP. But, anyway, I'm fine with
12 that. I wouldn't want 25,000 in there but 100,000 maybe.
13 And one could always -- we can always readdress these if they
14 are not -- that's the one thing I've learned in my life is
15 the best intentions don't always end up the way they should
16 be.

17 MEMBER KELLEY: So -- so I guess, Chair Freed, so
18 if we take A and we go the Board delegates the role as chief
19 of the using agency to the executive officer for routine
20 administrative contracts up to the threshold of one
21 (technical difficulty.)

22 CHAIRWOMAN FREED: We can't hear you. You're on
23 mute.

24 MEMBER KELLEY: Sorry. I was just, Chair Freed,
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1 I was actually saying perhaps we could just take A then and
2 turn -- and talk about the routine administrative -- so the
3 Board delegates as the role, the role as chief of the using
4 agency to the executive officer for routine administrative
5 contracts up to \$100,000.

6 CHAIRWOMAN FREED: Okay.

7 MEMBER KELLEY: And then B for all other
8 contracts, including any that involve the procurement of
9 services to PEBP members or actuarial services the Board
10 delegates ministerial and administrative duties as the chief
11 of the using agency to the executive officer, but the Board
12 retains the power and duty as the chief of the using agency
13 to approve scopes of work for request for proposals to
14 appoint members of the Board to evaluation committees
15 pursuant to 333.335 and to approve notices of intent to award
16 contracts pursuant to NIC 333.170.

17 And then once the notice of intent to award a
18 contract is approved by the Board the duty of negotiating the
19 administering the contract is delegated to the executive
20 officer.

21 MEMBER AIELLO: This is Betsy. I have a couple
22 of questions.

23 First, very simple up at the beginning and this
24 may be Laura. It may be Michelle, but if we put the 100,000
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1 in would that mean we would be reviewing leases? I don't
2 know how much an annual lease on your -- your properties are
3 or your auditor contracts or, no, we wouldn't be reviewing
4 those. Okay. So I'm good with that.

5 And, Michelle, you read an awful lot. In my
6 little mind I don't know that I can integrate all of that
7 unless I was to be able to see it in writing and sit down and
8 read it. I hate to that say that, but.

9 CHAIRWOMAN FREED: Me too. No, this is Laura,
10 met too.

11 I need to see that and read it again and think
12 about it for a sec.

13 MEMBER KELLEY: Okay. So I guess I'm just a
14 little confused about how we'll make changes or actually put
15 through recommendation for changes on this then.

16 CHAIRWOMAN FREED: Can you -- well, you could
17 e-mail it to PEBP staff and they can share a screen.

18 MEMBER KELLEY: Okay. Okay. We'll move on that
19 and I'll do that.

20 CHAIRWOMAN FREED: Okay. So the executive
21 officer shall ensure that accurate and detailed information
22 is provided to the Board and other governing bodies when
23 seeking to amend contracts, and supporting documentation
24 shall be provided. Thoughts on that?

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1 MEMBER LINDLEY: Tim here. I like it.

2 CHAIRWOMAN FREED: I think that's suitable as
3 well. And I like the addition the executive -- under four,
4 the executive officer will provide an appropriate checklist
5 to assist the Board in their review of the RFP.

6 Ms. Rich, did you want to go through the
7 checklists or at least the RFP process checklist to show
8 everyone what kinds of things are in it or do you think it's
9 just fairly self-explanatory?

10 MS. RICH: It is fairly self-explanatory. But if
11 we want to just pull it up really quick, I'm going to pull
12 mine up too. Actually, I have the paper version here.

13 We were able to get an example from another
14 agency, and we made some changes to fit really what -- what
15 works for PEBP. Because unfortunately not -- you know, there
16 aren't a lot of other agencies in the state that report to a
17 board, and so we had to make some changes in there to address
18 the Board procedures or the Board -- the steps where the
19 Board would have to be involved.

20 So prior to any solicitation the Board would take
21 action or this would be brought to the Board for the Board to
22 approve, staff to move forward with the solicitation, and
23 then throughout the RFP process there would be as we
24 discussed earlier Board members would be invited to
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1 participate in that process in the development of the
2 solicitation and also as a member of the evaluation committee
3 as well.

4 And then there are obviously steps at the end
5 where the Board would have to be included to ratify the
6 contract. So that's really what we did here is we kind of
7 took the -- took the example of other agencies. And I
8 believe Michelle can correct me if I'm wrong but I think we
9 got this from the division of welfare and supportive
10 services, so.

11 MS. WEYLAND: Actually it came from Hick Fab
12 (phonetic).

13 MS. RICH: Oh, okay. And then we just, like I
14 said, we just added the Board sections in there and made some
15 tweaks here and there, but we feel like this is pretty
16 comprehensive. If there's anything that the subcommittee
17 would like to add or even take out it's really up for
18 discussion up at this point.

19 MEMBER AIELLO: This is Betsy.

20 And I think that this is something we shouldn't
21 approve or disapprove because it's really a tool, the concept
22 of the checklist we have in our policies. But I would say
23 that it would be best if you guys actually used it and then
24 it came to a Board meeting and we said, oh, we feel like we

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1 still need to know X or you say we tried to use this but this
2 was really cumbersome, but we realized we need something so
3 we've got a good starting point.

4 But to actually vote in a form prior to it even
5 being tried and used sometimes causes -- you know what I
6 mean? The concept of the checklist I like and I commend you
7 guys for putting it together, and I bet you knowing me I
8 might have a suggestion here and there and probably other
9 Board members will too from having listened to them. But if
10 it can be a fluid document just based on people's needs I
11 like that idea.

12 MEMBER LINDLEY: Tim here.

13 I like that idea also because I don't want to
14 pigeonhole ourselves or corner ourselves to a specific
15 document that we may want changed.

16 CHAIRWOMAN FREED: Okay. That sounds good.
17 Thank you for that.

18 Should we move to page 12 then? And number five,
19 actions Board should take only in an open meeting. The new
20 addition is the Board shall review all documentation to
21 ensure justification for the recommended actions and
22 validation of recommendations by PEBP management.

23 And, Ms. Rich, what's the definition here of all
24 documentation because I don't know that for instance cost
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1 proposals are documentation that people who are not on the
2 evaluation committee could see, and I didn't want to run
3 afoul of NRS 333. There may be other things and I can't
4 remember what they are.

5 MS. RICH: Again, this is Laura Rich.

6 That's a good point. Maybe we need to reword
7 this to -- to ensure that those, the documentation is
8 appropriate documentation. So, I mean, we put ourselves in a
9 situation here where, you know, how -- how much into the
10 weeds do we want to get? So maybe appropriate documentation
11 is, we can add that word in there.

12 CHAIRWOMAN FREED: I would -- I would say
13 something like all documentation not prohibited pursuant to
14 NRS 333 or other applicable law or something like that.

15 MEMBER LINDLEY: I'm not a fan of all.

16 MEMBER AIELLO: Can -- now, this may just be the
17 Board saying no way, but can we put the Board shall review
18 all nonconfidential documentation? Take out the word all.
19 The Board shall review nonconfidential documentation because
20 this is related to an open Board meeting. So we can talk
21 about the nonconfidential and we could put per NRS. I don't
22 know. But if I'm a brand new Board member, even now I don't
23 know every single NRS, I need to look at to know it's
24 nonconfidential.

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1 MS. RICH: The other comment is should we use
2 shall or may.

3 CHAIRWOMAN FREED: This is Laura. I mean, I'm
4 not too perturbed by shall in the sense it is the Board's
5 responsibility. It would go into a Board meeting packet. It
6 might be a lot of stuff to read and you can say you shall
7 read it, but what's your enforcement to make Board members
8 read all their 500 pages of meeting packet?

9 MS. RICH: We might have a hard time recruiting
10 new Board members at that point.

11 MEMBER KELLEY: I guess isn't that the purpose I
12 guess of closing the Board meeting and discussing some of
13 these things behind closed doors, right, and then coming back
14 out and readdressing the issues, the nonconfidential in the
15 public setting?

16 MEMBER AIELLO: I think that the -- where this is
17 getting tripped though is the first sentence says the Board
18 shall take the following actions only in an open meeting. So
19 the documentation and maybe if that sentence gets moved
20 somewhere else so it could be in a closed meeting too, I
21 don't know, but I think that's where it's tripping because
22 it's documentation then that would be reviewed in an open
23 meeting.

24 CHAIRWOMAN FREED: This is Laura Freed.
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1 Betsy, your commentary triggered me for we can
2 strike the Board shall because the first sentence five says
3 the Board shall. So A, B, C and D are all a shall anyway.
4 So it would be award, cancel, modify, review. Start each one
5 of these letter phrases with a verb, review. I'm okay with
6 nonconfidential documentation to ensure justification for the
7 recommended actions, et cetera, et cetera.

8 MEMBER AIELLO: And that -- so the actions we
9 would do would be to award, to cancel or to modify and
10 reissue. This is sort of a statement about preparation on
11 what we need to do to be able to do those activities. Now, I
12 know it got put there because we were saying we want some
13 documentation to help us make those decisions, whether we
14 want to award, cancel or modify.

15 But I wonder if there should be like let's just
16 say that five would turn into six and I would have to read
17 this again and there would be a four that says the Board will
18 be provided documentation to ensure justification for the
19 recommended actions and validation of recommendation by PEBP
20 management. And then next the Board shall take the following
21 actions.

22 CHAIRWOMAN FREED: Okay. So going back to four,
23 the Board shall review the results, this is page 11, of any
24 evaluation proposals for a contract pursuant to NRS 333.335
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1 in a closed meeting. And the new addition is the executive
2 officer provides an appropriate checklist to assist the Board
3 in their review of the RFP in that closed meeting. And
4 number five is here's what you can do only in an open meeting
5 award, cancel, modify and reissue.

6 So what -- what then is the distinction of the
7 evaluation of proposals guided by a checklist in a closed
8 meeting as opposed to documentation in an open meeting?

9 MEMBER AIELLO: Let's go back to the purpose of
10 this was the purpose of this to tell the Board that we should
11 share documentation with the public that's allowable or was
12 this to address our concern that we needed documentation to
13 make decisions? Because if the concern that we need
14 documentation to make decisions is up in four then we maybe
15 don't need it in five.

16 But, again, are we going to close every meeting
17 for administrative contracts that we don't need. You know,
18 so is this to say we can get documentation for those smaller
19 things in an open meeting? So and I -- I don't know,
20 Michelle, you probably put that in based on things you heard
21 us say in the last meeting. Would you be able to explain the
22 intent of D to us again to help us remember?

23 MS. WEYLAND: Part of D was not just the last
24 meeting but also what was taken out of the actual audit in
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1 that the auditors were calling out that the Board should
2 review all documentation to ensure that what PEBP executive
3 staff is telling you has appropriate backup. So where we
4 make a distinction between what needs to be enclosed versus
5 public I would be more than happy to take any suggestions.

6 MEMBER AIELLO: So then maybe that's where we go
7 again. The Board shall review all nonconfidential
8 documentation to ensure justification in the open meeting
9 and -- and then the closed meeting up above has us reviewing
10 information too. Because I don't think we're going to always
11 go in closed meeting. So if we aren't in closed meeting
12 we -- and the audit said we weren't reviewing the
13 documentation then -- then it needs to be something like
14 nonconfidential or allowable for NRS or something.

15 MEMBER KELLEY: I think that was the purpose of
16 the -- of the checklist, right, was so that staff could
17 demonstrate that they followed the policy more than providing
18 detail. That was my memory of kind of what the checklist was
19 for, was kind of made to demonstrate that, yes, they followed
20 each of these steps. So -- so that there was really no
21 confidential information in the checklist, right, but rather
22 the -- the policy and the process had been followed.

23 MEMBER AIELLO: Yes. But I can foresee this
24 Board based on what I've seen wanting some more clarification
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1 in some areas than just the checklist possibly. Does that
2 make sense?

3 MEMBER KELLEY: Well, it does and I'm a proponent
4 of every time there's one of these on here the meeting gets
5 shot and we go into -- into to do our duty which is to
6 inquire about anything we need to inquire about.

7 So, but I think the NRS says it has to be
8 confidential. So -- so we have to do it in a closed meeting,
9 right. Otherwise what we're getting in public meeting is
10 nonsense because it's being redacted. So it's not actually
11 going to answer any questions I guess.

12 MEMBER AIELLO: So maybe we want to put and then
13 we can see what the rest of the Board says or, again, we can
14 readdress things if we need to. The Board shall review all
15 nonconfidential documentation and that would include the
16 checklist that PEBP has provided and anything else to ensure
17 justification for a recommendation.

18 CHAIRWOMAN FREED: This is Laura.

19 Betsy, are you still talking on mute, okay.

20 MEMBER AIELLO: Yes. I'm not good at driving
21 Zoom meetings. That will help us remember that there are, by
22 putting this in our policy there are some documentation we
23 can't do in the open meeting, but everything that we can we
24 should do there.

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1 MS. EATON: This is Cari Eaton. I just have a
2 quick clarification question. So any nonconfidential
3 documentation with regards to contracts that we're requesting
4 the Board to ratify, does that -- are you wanting like the
5 entire contract document in the Board materials to review or
6 I'm not sure exactly what you guys would be looking for.

7 MEMBER AIELLO: No would be my answer. So maybe
8 that's not the right way to write it. Again, then we go back
9 to I think Tim said to take the word all out.

10 MEMBER LINDLEY: Tim here.

11 Yes, maybe sufficient. The Board shall review
12 sufficient documentation.

13 CHAIRWOMAN FREED: This is Laura Freed.

14 I like that. Because, you know, then that allows
15 us to sort of use the policies and procedures as a living
16 document, you know. Sufficient documentation is going to
17 mean different things to different people on the Board. And
18 so, you know, the next time we have a nice meaty contract
19 that affects, and I think we're going to have some pretty
20 shortly here, the staff can say to themselves, okay, I think
21 this is what we think the Board will be most interested in
22 and how it would help the Board understand what we're trying
23 to do here and how we consciously evaluated or people on the
24 evaluation committee did and how we're obtaining best value

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1 for the state and all of these good things.

2 And then some Board members will be like it
3 sounds great. And other Board members will be like no, no,
4 no, I want something else and let them do that, and that way
5 we can sort of experientially come to the equilibrium of what
6 we mean by sufficient documentation.

7 MEMBER KELLEY: I like that as well. Because
8 each contract will be different depending on what it does as
9 well as to what is sufficient, so.

10 MEMBER AIELLO: I'm in agreement with that too.
11 Good word.

12 CHAIRWOMAN FREED: Okay. So just for -- just for
13 my knit-picky clarification, are we leaving five as D or are
14 we making it six and renumbering?

15 MEMBER LINDLEY: Keeping it 5D.

16 CHAIRWOMAN FREED: Okay. All right. Sounds
17 good. Okay.

18 MS. MOONEYHAN: Madam Chair, can I interject for
19 a sec?

20 CHAIRWOMAN FREED: You may, Ms. Mooneyhan.

21 MS. MOONEYHAN: The question you asked earlier
22 about taking a vote, I did a little bit of research. I
23 checked with some colleagues. It's not super clear about
24 subcommittee voting, but I think it would make a cleaner

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1 record and I would feel more comfortable I would feel that we
2 were more definitely in compliance if the subcommittee does
3 take a vote or votes. So I just wanted to tell you now
4 before you get too far. I don't know if you want to do it
5 item by item or we're at the end, but I just wanted to let
6 you know sooner rather than later.

7 CHAIRWOMAN FREED: No, yeah. Thank you very
8 much, Ms. Mooneyhan. I appreciate that.

9 Okay. Well, like I said earlier, I mean, if --
10 if the advice is to actually move and approve that is a heck
11 of a lot of red lines to move and approve one by one, and we
12 haven't seen the language that the Subcommittee Member Kelley
13 was going to share with the PEBP staff so we could all see it
14 visually. So I wouldn't want to move without seeing that.

15 So I think instead I could do it chunk by chunk
16 in 4.1. So take section one, take section two, take section
17 three and do it that way. Although I will willingly admit
18 here that section three would be kind of a toughy in that
19 there's a lot of little word changes that we've agreed upon
20 tentatively already.

21 MS. RICH: Can I -- can I interject and make a
22 suggestion maybe. Would it be appropriate if PEBP staff --
23 if we went through all of this and PEBP staff made the
24 proposed changes and brought it back to the subcommittee or
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1 final approval before it goes to the Board?

2 CHAIRWOMAN FREED: Yes, it would, but I didn't --
3 I wasn't to suggest doing that in the same meeting because
4 that -- I mean, unless you guys think you have time because I
5 didn't want this to be a five-hour meeting, and I'm trying to
6 be more mindful of your guys' need for breaks too. We're an
7 hour and 15 minutes in and you guys might want a break by
8 now. So are you suggesting --

9 MEMBER AIELLO: How quickly does this have to go
10 to the big committee?

11 CHAIRWOMAN FREED: How quickly?

12 MEMBER AIELLO: Yeah. Like, if we -- I mean, if
13 we miss January and we did March, is it --

14 CHAIRWOMAN FREED: Uh-huh.

15 MEMBER AIELLO: -- better to get it done
16 thoughtfully or does it have to go pretty quick and then we?

17 MS. RICH: So we have to -- we have six months to
18 come up with a follow-up action plan. So and I have to look
19 back. There's so many audits right now I can't remember
20 which one is which. I have to look back and see.

21 Worst case scenario because of the legislative
22 session we are going to be holding small monthly Board
23 meetings for legislative updates, and so I can kind of sneak
24 one of these in on maybe a February Board meeting agenda and
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1 we can -- you know, that's worst case scenario. That's what
2 is necessary.

3 MEMBER AIELLO: But an action plan isn't
4 necessarily an action completion or is it they wanted it
5 completed?

6 MS. RICH: Do they want to see progress?

7 MEMBER AIELLO: Right.

8 MS. RICH: An action plan. So this is showing
9 that we've made progress.

10 MEMBER AIELLO: Okay. So --

11 MS. RICH: Steps towards making progress. So I
12 think we're fine. Even if I wanted to bring this to the
13 March Board meeting I think we would be okay because we are
14 making progress. We can see that we've had Board meetings.
15 There's definitely documentation to show that we have made
16 progress towards the action plan that was submitted to the
17 LCB audit subcommittee meeting or subcommittee.

18 So there's -- I think we're okay even if we were
19 to wait until the March Board meeting to bring this to the
20 full Board.

21 CHAIRWOMAN FREED: Okay. This is Laura Freed.

22 Okay. So with that in mind let's just work
23 session it this time, let you guys go back, add in, you know,
24 add in Michelle's suggested language. Although, I think it

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1 would be beneficial to e-mail it to all of the Board
2 subcommittee members and let's keep rolling and then not take
3 action because I think -- I stand by what I said last time.
4 We can be deliberative we should do that, and I think we can
5 here, all right.

6 MEMBER KELLEY: Chair Freed, it's Michelle here.

7 I wonder if it's not possible for someone or
8 maybe Michelle at PEBP to actually be sharing her screen and
9 red lining the changes as we discussed so that we, as people
10 have indicated, that the visual as well is ordered audio
11 learners, so I don't know if that's asking too much if -- if
12 she could actually have that section up when we -- you know,
13 entering changes, not finalizing them.

14 CHAIRWOMAN FREED: Uh-huh.

15 MEMBER KELLEY: But just so we can actually
16 see --

17 CHAIRWOMAN FREED: Uh-huh.

18 MEMBER KELLEY: -- what it is we're talking
19 about. Because I can say it's easy to get lost in the
20 documents, right, when we're sitting here with your copy and
21 your electronic copy.

22 CHAIRWOMAN FREED: Sure.

23 MEMBER KELLEY: I have also shared that language,
24 the red lines that I had made with staff as well, so.

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1 MS. RICH: And, Michelle, and Michelle, both
2 Michelles, I don't know because as Betsy said when you only
3 have one screen it is difficult to multitask. So I don't
4 know, Michelle W., if -- if you have multiple screens and
5 this is something that you could do while you are watching
6 and attending the Board meeting.

7 MS. WEYLAND: I can take a stab at it. We have
8 already made multiple changes and have gone back and forth
9 and I have a lot of notes that I want to compare with Wendi
10 to try to ensure that I got what was agreed upon. I'm
11 willing to -- I do have two screens here at home so I can
12 try.

13 MEMBER KELLEY: I think it adds value.

14 CHAIRWOMAN FREED: This is Laura Freed.

15 Yeah, Michelle Weyland, if you can share your
16 screen with the document and see what we can see. Yeah. All
17 right. So, committee folks, did you want to go back or do
18 you want to just keep rolling where we are at number -- page
19 12 number seven or eight?

20 MEMBER KELLEY: I think to go back is asking
21 Michelle to start again because as she indicated, she has
22 notes and she's wanting to check that. So it seems like we
23 would be re-adjudicating the same stuff.

24 CHAIRWOMAN FREED: Okay. Okay. All right. So,
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1 Michelle W., if you could scroll up a tiny bit to number
2 eight. There you go. Right there. Perfect. Can everybody
3 see that? Is that big enough by the way?

4 MEMBER LINDLEY: I can see it.

5 CHAIRWOMAN FREED: Whoa, that's really big.
6 Thank you. The Board shall -- okay. So let's consider this
7 bit then. The Board shall oversee significant scope
8 modifications and enter a competitive bid process as followed
9 for but not limited to. Okay. I would say for the following
10 whatnot -- for. Okay. Let me think about that.

11 Changes in the scope of the competition, what
12 does competition mean here?

13 MEMBER KELLEY: I had changed it to I think it
14 felt to me like it should be contract. Changes in the scope
15 of the contract.

16 MS. RICH: Michelle, did you get this language --
17 I think you got this language from another document, right?
18 You're on mute. Michelle, you're on mute.

19 MEMBER AIELLO: She might not be able to --

20 MR. CARROLL: When you start sharing it kind of
21 minimizes it.

22 MS. WEYLAND: Thank you, Chuck.

23 MR. CARROLL: You're welcome.

24 MS. WEYLAND: Can you hear me now?
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1 MS. RICH: We can hear you.

2 MS. WEYLAND: Yeah. No, I actually pulled a lot
3 this language straight out of the LCB audit document based on
4 their recommendations.

5 CHAIRWOMAN FREED: Yeah, I don't know what scope
6 of competition means in this context. So I think we could --
7 I mean, I think we can say it changes in the scope of the
8 contract. I'm fine with changes that were not within
9 contemplation of parties when the original contract was
10 entered. Even though I think that's sort of the same thing
11 as changed in the scope of the contract because I think it
12 would be -- although, you know, they -- they may or may not
13 have contemplated when the original scope was crafted.

14 Changes that materially alter the contract, I
15 think that's extraneous if you change A to changes in the
16 scope of the contract. Changes in the function of the item
17 of the type of work. I don't know what's meant by that.
18 What is -- and historically procured services under a
19 separate contract, I think that language needs clarification,
20 even though I think I know what you're trying to say.

21 MS. WEYLAND: Well, taking them in reverse,
22 historically procured services under a separate contract
23 would be services we contracted for with a separate vendor
24 under a separate scope of work in the past are now combined
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1 to a new scope of work is how I read it when I was going
2 through the --

3 CHAIRWOMAN FREED: Okay.

4 MS. WEYLAND: -- audit procedures.

5 CHAIRWOMAN FREED: Okay. Then I would add
6 historically procured services under a separate contract all
7 good. Being combined into a current bid or something like
8 that.

9 MEMBER KELLEY: You know what, it's Michelle
10 here, Chair Freed, changed in the scope of the competition.
11 I had been on an RFP where when we got to finalists,
12 something about one of the finalists changed or sparked a
13 flag. I wonder if that's not what they are talking about
14 with changes to the competition.

15 So, you know, you go down a certain path and then
16 maybe this litigation against your primary or the only, you
17 know, vendor who passed the RFP and was able to do the job.
18 So perhaps changes to the competition is actually talking
19 about that level of a change because it kind of does have to
20 be documented right. What happens if, you know, you're in
21 the middle of an RFP and someone gets bought out by someone
22 what does that do to the services you're trying to solicit
23 for?

24 CHAIRWOMAN FREED: Okay. Okay. Then with that
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1 context I guess I could -- I'm good with leaving in the
2 change of the scope of the competition and then adding
3 something like and/or vendor status to address the point you
4 raised about somebody gets bought out in the middle of
5 bidding for the business.

6 MEMBER KELLEY: Yes. I was just trying to think
7 about what's different about a contract and the competition.
8 So that's where, yeah, where would we capture those
9 fundamental changes with a vendor so anyway.

10 CHAIRWOMAN FREED: Michelle W., could you take
11 the S off of alters.

12 MS. WEYLAND: What letter, please?

13 CHAIRWOMAN FREED: C.

14 MS. WEYLAND: Oh, there we go.

15 CHAIRWOMAN FREED: So, committee members, any
16 other thoughts about Number Eight?

17 Okay. Are we ready to scroll down to C,
18 amendments? For myself, this is Laura Freed. I didn't have
19 any changes to suggest on this one. I thought this looked
20 good.

21 MEMBER LINDLEY: Same here. I would just say
22 remove the word all.

23 CHAIRWOMAN FREED: Okay. This is Laura Freed.

24 I think we've come to the end of the contract
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1 amendments. The rest of the red line is plan design stuff
2 that has happened at previous Board meetings. Correct me if
3 I'm wrong, Ms. Rich.

4 MEMBER AIELLO: I -- I have a question, Laura
5 and/or Laura. This second set of red lines, was it
6 subcommittee approved or was it already Board approved but it
7 stays as a red line until the next set of changes?

8 MS. RICH: So it was already Board approved but
9 it had to be changed in the policies and procedures and so
10 those changes had not come back to the Board where the actual
11 policies and procedures had not come back to the Board for
12 approval. We knew that this was going to need to be under
13 change and so it's all going to come back at once.

14 MEMBER AIELLO: So one of the things I have a
15 little bit of a concern about is it will be hard for me to
16 vote on something I don't quite understand the change. Like,
17 a 95 percent confidence level to 50 days on hand. So I know
18 there's been a subcommittee or somebody that has discussed it
19 and we might not but if I'm expected to vote on some of these
20 there are some things within this that are not fully
21 understandable, and maybe that just means I should have a
22 call with you, Laura, to go through them so I can understand
23 what has occurred or I could abstain from the vote, but then
24 I may be abstaining from the whole thing that we just

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1 discussed. I don't know.

2 MS. RICH: No. I think let me propose a
3 suggestion and Ms. Mooneyhan can weigh in.

4 I think when PEBP presents this to the entire
5 Board we can make two recommendations. The first one is to
6 make the recommendation of the Board policies and procedures
7 that were -- the changes that were made on, and I can't
8 remember the specific Board or, yeah, Board date. I think it
9 was the July Board meeting.

10 And then the second one would be to approve the
11 subcommittee recommendations.

12 MS. MOONEYHAN: I agree. I think that would be a
13 great way to handle it.

14 MEMBER KELLEY: So it's Michelle here. On kind
15 of on a different matter. We're closing out the contract
16 issue. When I used this document, once I got it to go in and
17 I was interested because we're doing rate-setting in March.
18 So I was trying to understand exactly how the rates were set
19 last year. And so, you know, I followed the instructions in
20 here which was, you know, the formulas provided in the
21 appendix A, and I found the detail to be lacking.

22 I can't reverse -- I don't -- I do not understand
23 from reading this document how the rates are set. I have a
24 lot of definitions which I appreciate, you know, about the
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1 reserves and how those are calculated. But, once again, in
2 line with what Betsy said I don't necessarily understand the
3 change from incentive to the 50 days on hand.

4 But also given in March we're doing rate-setting,
5 which is pretty important, I don't see the detail in -- in
6 this document and shouldn't it, if it's our policies and
7 procedures shouldn't I be able to at least get some
8 understanding of how the employee premiums and the base
9 subsidies and all of that good stuff is established or is
10 that not the goal of this document?

11 CHAIRWOMAN FREED: Hang on a second. This is
12 Laura Freed.

13 Ms. Mooneyhan, are we getting off the agenda and
14 should agendize this for a different meeting instead?

15 MS. MOONEYHAN: Well, I was just going to ask,
16 are we talking about -- I mean, obviously the subcommittee is
17 considering all of the changes in this document today, but if
18 we are going to talk about understanding some of these
19 changes that does seem to be beyond the scope of what may
20 have been noticed for this meeting.

21 CHAIRWOMAN FREED: Okay. Okay.

22 MS. RICH: Ms. Mooneyhan, this was related to the
23 items in the audit. So I think this is outside of the scope.
24 You can -- you might want to confirm that, but I believe that
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1 that's outside of the scope. However, what I do want to say,
2 Ms. Kelley, is that we plan on bringing a -- this likely to
3 the January Board meeting as part of the agenda of a
4 comprehensive, this is how we set rates. At that point we
5 can later as a Board, the Board can make that decision to --
6 to incorporate it into the Board policies and procedures at a
7 later date.

8 MEMBER KELLEY: Okay, great. So in that January
9 Board meeting you'll be bringing kind of what the -- how the
10 historic rate-setting process versus kind of what we will be
11 looking at in March, right?

12 MS. RICH: Correct.

13 MEMBER KELLEY: Okay.

14 CHAIRWOMAN FREED: Okay. With that I think we
15 are able to move on to Agenda Item Five, which is, again,
16 public comment.

17 MR. CARROLL: Madam Chair, we don't have any
18 attendees in for public comment, but I can go ahead and
19 display the share screen if would you like me to.

20 CHAIRWOMAN FREED: Yeah, let's go ahead and do
21 that. I'm just waiting to see if anybody decides to jump in
22 the queue for public comment. Then it sounds like no one
23 has.

24 So now that we have worked our way through the
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1 document what I think for the next meeting, let's --
2 Ms. Rich, how -- how soon do you want to have the next
3 subcommittee meeting to consider all of this and perhaps take
4 this to the big Board meeting in March?

5 MS. RICH: I would say the sooner the better just
6 because we are getting into legislative session and I think
7 are going to be very very busy.

8 CHAIRWOMAN FREED: Okay. Is it possible to do it
9 in, you know, like seven to ten days?

10 MS. RICH: Anything is possible for PEBP staff.
11 It's up to the Board members if there is -- if there's
12 availability.

13 CHAIRWOMAN FREED: Right. Understood, okay.

14 All right. Then let's try and make the changes
15 that we have discussed and reconvene in about a week to see
16 if we can take action to make a recommendation to the full
17 Board about -- about the contracting provisions of the Board
18 policies and procedures red line as distinguished from the
19 rate-setting red lines that were already in the document,
20 okay.

21 And if we have nobody standing by for public
22 comment then I think we have come to adjournment, so.

23 MR. CARROLL: Madam Chair, that is correct, there
24 are no attendees.

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CHAIRWOMAN FREED: Okay, great. Then we are
adjourned.

Thank you everybody.

MEMBER LINDLEY: Thank you.

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1 STATE OF NEVADA,)
2 CARSON CITY.) ss.

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I, KATHY JACKSON, Official Court Reporter for the State of Nevada, Public Employees' Benefits Program Board, do hereby certify:

That on Thursday, the 8th day of January, 2021, I was present on a teleconference for the Public Employees' Benefits Program Subcommittee, Carson City, Nevada, for the purpose of reporting in verbatim stenotype notes the within-entitled public meeting;

That the foregoing transcript, consisting of pages 1 through 62, is a full, true and correct transcription of my stenotype notes of said public meeting.

Dated at Carson City, Nevada, this 15th day of January, 2021.

KATHY JACKSON, CCR
Nevada CCR #402

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**PUBLIC EMPLOYEES' BENEFITS PROGRAM BOARD SUBCOMMITTEE ROOM/TELEPHONIC OPEN MEETING
TRANSCRIPT OF PROCEEDINGS**

January 8, 2021

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