IMC Special Meeting Minutes: 11-30-2005

Minutes transcribed by Lauren Latterman, OIT and Elain Radford, IMC Program Coordinator.

I. Call to Order: 3:35 pm – Chairman Picanso

IMC Commissioner attendance: Cadman, Delmonico, May, Picanso, Wells, Coleman, Lutz, Monkman (Sobanet delegate), Mulford, and VanDerSchouw.

Introduction of Commissioners

A. Chairman's Remarks

Chairman Picanso called this special meeting to order and facilitated roll call. He stated: "The purpose of this special meeting is to take an official vote to adopt the proposed IMC Rules version 0.11 within the required 180 days from the June 30, 2005 public hearing.

B. IMC Rules Version 0.11 (Vote)

Chairman Picanso opened Rules discussion to the floor and took input on the three alternative considerations (see handout "Rule 1-1 modification considerations"). Commissioner Wells noted that he had asked the staff to create a modification of proposed IMC Rule 1-1 regarding chief executive officers and CIO's. Three modifications have been presented: 1) no change, 2) to remove the CEO reference and modify the word "certify", or 3) to remove the entire section.

Motion #1 (Motion: Commissioner Wells; 2nd: Representative Coleman

To adopt Rule 1-1 with staff modification #2 but amend its language to say, "The chief information officer of each agency shall REPORT to the IMC/OIT regarding the agency's compliance with IMC plans, policies, and directives. The REPORT form, content, and due date shall be determined by the IMC, in consultation with agency chief information officers".

Commissioner Delmonico then proposed the addition of the word "annually" to the amendment so that it would read "The chief information officer of each agency shall ANNUALLY report…"

Amendment passed 10-0.

Chairman Picanso opened floor once again for discussion regarding the rules document. Commissioner Wells noted that after reviewing the Colorado Revised Statute, he feels that the Rules, as a entire body, go beyond the statutory authority that was granted to the IMC. Therefore he will vote "No" on the rules today – "not because they are bad rules but because I do not think the IMC has the authority to promulgate all of them."

The IMC has two statutes that provide rule-making authority. First, one says that the IMC can promulgate rules that are necessary to implement the Internet Portal. In his belief, this was superceded by the subsequent passage of the Portal Authority legislation. Second, CRS 24-37.5.202 states that there are 9 powers and duties for the IMC. While the Rules do reflect these 9 powers, the only rule making authority is found in Paragraph "D", which relates to purchases. He recognizes that these rules are designed to require department and project plans as well as accounting procedures as criteria for purchase approval. And that is one tact. However, he still

feels the IMC can only approve rules narrowly related to "purchases" and that the IMC doesn't have the authority to make rules tying together any of the other sections.

Chairman Picanso confirmed that conference call attendees heard commissioner Wells' comments and asked for further discussion.

Representative Cadman: Should this motion fail, for the future of the IMC do we need to revisit the legislation and add clarity to the rule-making section?

Commissioner Wells: Also wanted to mention that he has heard talk of new IMC/OIT legislation for January 2006 which purportedly will address the powers and duties and obligations of the overlapping groups between the IMC, OIT, DPA, Governor's Security Advisor, etc. It might make sense to wait until this legislation is finalized before promulgating rule changes.

Commissioner Delmonico: Understands what Commissioner Wells stated and believes that he is correct in the fact that purchases should not be made unless we have a lot of these rules followed. Whole purpose of getting a better rule process is to try to get a better handle on how we pursue IT investment. The current rules in place are not even remotely useful and to her, adopting rules that would be better, no matter what happens with legislation, will provide us with a better foundation and can go back later to adjust it. There has been a lot of good quality work that has gone into formulating these rules that shouldn't be lost.

Representative Coleman: Discussed the fact that many on this Commission and various staffs have been hard at work on these Rules since early this year. Additionally, in May they had talked with the Secretary of State to make sure they were following the rule-making process properly. Subsequently, we met with all of the sub-groups where rules were proposed. The biggest task was to get all of the CIO's together. OIT staff has proposed a comprehensive framework for empowering the IMC to maximize the State's IT buying power.

These concerns would not prevent her from voting today. If necessary, we could put a caveat in to say that some of the rules would not go into effect until the new legislation is finalized.

Commissioner Wells: Would prefer the delay Representative Coleman suggested. Having served on legal services committee for 16 years, during his tenure in the legislature, he mentioned how frequently they had seen an agency come up with a good rule but that since it exceeded their statutory authority, the legislature could not allow the rule to stand. Certainly there were times when the next year the agency would fix their statues to authorize the desired rule. However, even if the legislature amends the IMC/OIT statutes next year, we would still have to go back and redraft the rules anyhow because we didn't have such authority at that time.

Chairman Picanso: Did the dial in commissioners hear all that was said and are there any further questions? No questions. Daniel Sullivan has something to add.

Daniel Sullivan: Shared with the IMC feedback that OIT had received from the AG's office. In reviewing the actual statutory language, the AG specifically differentiated 2 aspects in the IMC's rule-making statutes: setting "criteria" for purchases (higher-level, broader procedures) and identifying "minimum standards" (a more detailed, granular deliverable). Certainly it is a best practice to expect agencies to submit develop and submit plans prior to making investments – for example, you would not want to approve a proposed procurement if the agency had not submitted an annual and project plans, nor if they did not code the purchase using the IMC-

directed IT chart of accounts. Finally, it is worth mentioning that the existing set of rules cover more than simply procurement transactions, were originally promulgated under the same legislation and obviously have been approved by both the AG and the Legislative Legal Services. Therefore it is both statutorially appropriate and honoring of precedent to, when amending the existing rules, continue using this comprehensive approach of tying rules together to achieve optimum procurements.

Chairman Picanso: Have taken enough input on the concerns, positives and negatives of pursuing the Rules. Asked the floor for a motion.

Motion #2 (Motion: Commissioner Wells; 2nd: Commissioner Delmonico)
Approve draft 0.11-as amended
Approved 9-1

Commissioner Lutz: Due to a prior engagement, I must disconnect from this call.

C. Meeting Minutes (Vote)

Motion #3 (Motion: Representative Coleman; 2nd: Commissioner Delmonico)
Approve Meeting Minutes from October 28 and September 16, 2005.
Approved 9-0

D. End User Computing Standard Specifications (Vote)

Chairman Picanso: Publicly stated that working committee has always done a stellar job revamping this document every quarter and were recognized by IMC association group in Colorado Springs. All 12 received an appreciation award. That committee has helped the commission stay up to date on the End User Computing Standard Specifications.

Motion #4 (Motion: Commissioner VanDerSchouw; 2nd: Representative Coleman)
Approve End User Computing Standard Specifications
Approved 9-0

II. Old Business

None

III. New Business

None

IV. IMC Subcommittee Readouts

None

V. Other Business

None

Adjournment

Motion #5 (Motion: Representative Coleman; 2nd: Commissioner Wells)

Adjourn meeting
Approved unanimously

Chairman Picanso adjourned the meeting at 4:05 pm.

The next IMC will be held on:
January 20, 2006