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IN THE HONORABLE SENATE OF THE STATE OF ILLINOIS
FOR THE NINETY-SIXTH GENERAL ASSEMBLY
SITTING AS AN IMPEACHMENT TRIBUNAL

2009 JUN 21 PM 4:39
SECRETARY
OF THE
SENATE

In re)
Impeachment of)
Governor ROD R. BLAGOJEVICH)

**HOUSE PROSECUTOR'S
MOTION FOR ADDITIONAL DOCUMENTS OR MATERIALS**


House Prosecutor David W. Ellis, pursuant to Senate Impeachment Rule 15(b)(2), moves for the admission of additional documents into evidence and, in support thereof, states as follows:

1. The House Prosecutor seeks to admit various newspaper articles relating to the procurement of flu vaccines by the State of Illinois.
2. Copies of these documents are attached to this Motion.
3. These documents will be introduced during the live testimony of Representative Jack D. Franks as an exhibit.
4. These documents are relevant and material because they demonstrate Governor Blagojevich's actions with regard to, and responsibility for, the procurement of flu vaccines, as provided in paragraph 10 of the Article of Impeachment.
5. These documents are not redundant because they do not exist in the proposed form.
6. Moreover, although some evidence related to this issue is contained in the House impeachment record, under Senate Impeachment Rule 15(g), the evidence is not deemed redundant simply because it relates to material already in the record.

WHEREFORE, the House Prosecutor respectfully moves for the admission of various newspaper articles relating to the procurement of flu vaccines by the State of Illinois at the Impeachment Trial.

Respectfully submitted,

**DAVID W. ELLIS,
HOUSE PROSECUTOR**



David W. Ellis
House Prosecutor
Illinois House of Representatives
412 State House
Springfield, IL 62706

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Sun-Times
10-25-04

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Gov seeks federal OK to buy flu vaccine from Europe

BY LYNN SWEET

Sun-Times Washington Bureau Chief

Days before a presidential election where a flu vaccine shortage is an issue, Gov. Blagojevich today will seek federal permission to import 30,000 doses from Europe for Illinois nursing home residents.

The FDA is likely to reject the Blagojevich request in the latest chapter of an ongoing struggle between Illinois and the Bush administration that is part of the national debate over importing prescription drugs from other countries.

Ten days ago, the U.S. Food and Drug Administration said the government was contacting every vaccine maker in the world for additional supplies, but did not want to create "false hope" while exploring "every option."

On Sunday, a spokesman for the FDA who did not want his name used said the agency had not received the letter from Blagojevich, echoing the earlier statement.

"The Department of Health and Human Services and the FDA have been and are committed to working expeditiously to identify and make available to U.S. citizens in those high-risk categories established by the Centers for Disease Control and Prevention all potential worldwide sources of safe influenza vaccine," the spokesman said.

Illinois defied the FDA earlier this month when it launched a service to help residents buy cheaper prescription drugs from Canada, Great Britain and Ireland. Drug purchases from other countries are illegal, but the FDA has not tried to shut down the plan, called the "I-Save-Rx" program.

Seeks 30,000 doses

Blagojevich is sending a letter today to Lester Crawford, the acting FDA commissioner, asking for approval to purchase at least 30,000 doses of flu vaccine made by Aventis Pasteur, a French pharmaceutical company in its Lyons plant.

Aventis Pasteur is already providing more than 54 million doses of flu vaccine and Flu-Mist nasal spray to the United States.

"The only barrier to distributing the vaccine to Illinois residents is clearance by the Food and Drug Administration," Blagojevich said in his letter to Crawford.

The state learned of the potential to buy the flu vaccines from the governor's staffers who work on and helped develop the I-Save-Rx program, Scott McKibbin and Ram Kamath. The state employees were in Great Britain to deal with suppliers and pharmacies doing business with I-Save-Rx.

Well aware of the flu vaccine shortage, they scouted around and found the medicine available for purchase. Blagojevich said the vaccines could be "shipped within

hours of approval by the FDA."

The Illinois Department of Public Health, according to a release from the state, evaluated the ingredients of the vaccines and concluded that the medicine "contains the identical properties as the Aventis vaccine produced for the United States."

State personnel did not inspect the Lyons plant. Blagojevich in his letter to Crawford urged the FDA to decide if inspections are needed and, if so, "conduct them immediately."

Shortage factors into campaign

Stories about seniors and others standing in long lines for flu shots have run in the closing days of the presidential campaign. The political implications of the shortage grew sharper when President Bush and Sen. John Kerry were asked about the flu shortage in the final presidential debate.

Bush urged younger people not to get the shot in order to save supplies for at-risk populations, including almost all senior citizens. He blamed the cost of lawsuits for driving U.S. manufacturers out of the flu vaccine business. Last week, Bush signed a measure that gave limited liability protection to flu manufacturers.

Kerry is running a TV ad in some battleground states blaming Bush for the shrinking supply. "Instead of fixing the problem, production of the vaccine was sent to a factory overseas," the Kerry spot said. "Now Bush wants Canada to help, even though his own policies make it illegal for us to import medicine from Canada."

Blagojevich and Rep. Rahm Emanuel (D-Ill.) have led the fight to make legal imports of prescription drugs from Canada and other countries. The FDA and the Bush White House have resisted, on the grounds that the government will not be able to guarantee the safety of the medicine.

Origins of problem

The flu vaccine crisis started Oct. 5 when the British government suspended the license of Chiron Corp., which was to have produced between 46 to 48 million doses of Fluvirin, about half of the supply for the U.S. market. The British suspected possible microbial contamination, and on Oct. 15 FDA inspectors visited the Chiron plant in Liverpool and determined none of the vaccine made there was safe to use.

In addition to seeking approval to use the French flu vaccine, Blagojevich is asking the CDC to allow Illinois to use federal funds to pay for the medicine. If turned down, the governor will use state money.

Abby Ottenhoff, a Blagojevich spokesman, said if more doses are located, the state would seek to distribute the medicine to hospitalized children.

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NY Times
10-25-04

Illinois Governor Seeks Vaccine Abroad

By MONICA DAVEY

Gov. Rod R. Blagojevich of Illinois, one of several leaders of state efforts to buy prescription drugs from outside the United States, says he has found at least 30,000 doses of flu vaccine in his conversations with overseas drug wholesalers and wants permission from the federal authorities to buy the doses for elderly residents of his state.

With reports of people in Illinois and around the country waiting hours in lines for flu shots and even driving to Canada for the vaccine, Governor Blagojevich, a Democrat, will ask the Food and Drug Administration today for permission to buy the added doses through European wholesalers at a rate he says he has already negotiated — \$7 a dose.

The request is certain to raise new questions about a vaccine shortage that has left the nation with about half its normal supply: how quickly will the F.D.A. decide whether it is safe to import doses of the vaccine, and is it the role of state or local officials to find extra doses and buy them for their own residents?

Yesterday, Mr. Blagojevich's aides said he intended to send the 30,000 extra shots — perhaps more — to the state's most vulnerable residents, those in nursing homes. Without the extra shots, his aides said, the federal authorities have promised only 35,000 flu shots, all told, to Illinois's nursing homes, which have about 100,000 residents.

"The flu season is nearly here, and based on the supply offered to us by the federal government, thousands of senior citizens and others in Illinois would be forced to brave the winter without a flu shot," Mr. Blagojevich said in a news release. "It's dangerous to expect them to do that."

Nearly 3,000 Illinois residents died of flu and pneumonia-related causes in 2002, and nationwide some 36,000 die annually from the flu.

In a letter to be faxed today to Dr. Lester M. Crawford, the acting commissioner of the Food and Drug Administration, Mr. Blagojevich asks for a swift answer to his request to buy the flu vaccine.

"In light of the critical importance of this matter to the public health, I urge you to give this request the highest priority and to expeditiously direct the officials at F.D.A. to take

whatever steps necessary to give the State of Illinois the necessary authorizations to make this drug available to its citizens," the letter says.

Mr. Blagojevich requested that the federal Centers for Disease Control and Prevention allow Illinois to use

A request for federal approval to buy flu shots from overseas wholesalers.

federal money to buy the extra shots. But if the C.D.C. refuses, the state will cover all costs itself, he said.

Reached at his home yesterday, Dr. Crawford said his agency had received many leads on extra doses of the flu vaccine and was already in negotiation with three countries for five million additional doses.

"We're looking all over the world for flu shots," he said. "What we need to make sure, first, is that it's safe. And the shots he is talking about may already be among the ones we've located, I don't know."

He said he needed to know the full details of Mr. Blagojevich's request before responding. "If he's got some-

thing, he should let us know," Dr. Crawford said. "We'll be very happy to follow up on it."

Abby Ottenhoff, an aide to Mr. Blagojevich, said the 30,000 doses Illinois wanted were produced by Aventis Pasteur's plant in Lyon, France, and had been intended for use by people in Europe and Canada.

Aventis Pasteur, with a plant in Pennsylvania, is already providing the bulk of this nation's supply this year, 55 million shots. Some 46 million additional doses to be provided by a second company, Chiron, were condemned because of concerns about bacterial contamination at the company's factory in Liverpool, England, leaving the authorities here scrambling to find more.

Ms. Ottenhoff said Illinois officials believed that the 30,000 doses they hoped to buy from the French plant were similar to those already being used in the United States and supplied by Aventis here. "It protects against the same strains of the flu as the one here is and it seems to be the same," she said.

For months, Mr. Blagojevich, along with a handful of other governors from the Midwest and elsewhere, has engaged in a simmering war with the Food and Drug Administration over whether to allow Americans to order their prescriptions from Canada and Europe. Mr. Blagojevich, who has started a buying program for residents of Illinois, says that the drugs from overseas are safe and far cheaper than those available in this country; the drug agency, meanwhile, bars such purchases and contends that the drugs may not be safe or genuine.

Ms. Ottenhoff dismissed any notion that the request for the vaccine was part of Mr. Blagojevich's political fight with the agency over broader questions of drug importation.

"Illinois is — as is every other state in the country — scrambling to make sure it can get flu vaccine for its most vulnerable residents," Ms. Ottenhoff said. "This is a real government crisis. And thanks to the relationships we have made outside the United States with our prescription drug program, we have found these supplies."

"If we have more than we need to meet the most critical needs of Illinois, he is more than willing to share," Ms. Ottenhoff said.

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State finds more flu shots in Europe

By MARY MASSINGALE
STATE CAPITOL BUREAU

State officials on Tuesday announced they have located an additional 200,000 doses of Aventis flu vaccine in Europe, bringing the total doses found through the new I-SaveRx program to nearly 300,000.

However, Gov. Rod Blagojevich still has yet to get a response from a letter he sent to the Food and Drug Administration requesting agency officials to inspect the Aventis manufacturing plant in Lyon, France, that produces vac-

U.S. use, Blagojevich will not go forward with the purchase until FDA officials sign off on it.

"We have called the FDA today and are hoping to have a meeting with them in the near future," said Abby Ottenhoff, a Blagojevich spokeswoman.

Dr. Lester Crawford, acting FDA commissioner, issued a brief, three-sentence statement regarding Blagojevich's request.

"We appreciate the information

I-SaveRx program has acquired 300,000 doses

from the governor. We received the letter and will evaluate it expeditiously," Crawford said in the statement. "With regard to any new sources identified, we would make sure the vaccine is safe and effective and add it to the amounts we are negotiating for from other countries."

The FDA recently asked Aventis to produce an additional 2.6 million doses of the vaccine, but they wouldn't be ready until January —

the peak of the flu season in Illinois.

Ottenhoff said that any vaccine purchased by the state would remain in the state.

"(The governor's) top priority is meeting the need in Illinois," she said. "Once that's met, he's open to working with the Centers for Disease Control and Prevention in helping other states meet their need."

Ottenhoff said the vaccine, if approved, would make up the esti-

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ated shortfall of at least 150,000 doses for at-risk seniors in nursing homes and hospitals. The next priority of patients would be senior citizens living at home, children between the ages of 6 and 23, and others with chronic health conditions.

The price of the located flu vaccines is hovering around \$7 per dose and does not exceed fair market value, Ottenhoff said.

Providers of annual flu shots nationwide have sharply rationed dosages since flu vaccine manufactured at a Liverpool, England, plant by Chiron Corp. — the other major supplier of U.S. flu vaccine — was found to be contaminated by bacteria. The nation's usual supply of 100 million doses was then cut in half.

Blagojevich announced on Sun-

day that inspectors with his new I-SaveRx program had located 30,000 doses of flu vaccine. On Monday, that number ballooned to between 62,000 and 87,000 doses. And on Tuesday, Blagojevich said 80,000 additional doses had been located, with 120,000 more expected to be available within the next week to 10 days.

The I-SaveRx program links residents of Illinois and Wisconsin with pharmacies and wholesalers in the United Kingdom, Canada and Ireland to get cheaper prescription drugs. Only refills of the 100 most commonly prescribed prescription drugs can be filled for 90-day supplies.

FDA regulations prohibit the importation of drugs but have yet to crack down on individuals, municipalities or states who use Internet prescription drug suppliers.

Mary Massingale can be reached at 782-6882 or mary.massingale@sjr.com.

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Flu shots available to more people

Anyone at least 50 years old is now eligible

By DEAN OLSEN
STAFF WRITER

People 50 and older will be able to get flu shots next week from Sangamon County's two public health departments.

The Springfield and Sangamon County departments of public

health are expanding the groups of people eligible for flu vaccine in response to suggestions from the U.S. Centers for Disease Control and Prevention and Gov. Rod Blagojevich.

Since a nationwide flu-vaccine shortage began in October, parts of Illinois and other states have seen a falloff in demand for shots from people most at risk from the flu.

In those areas, CDC officials and Blagojevich say local health departments and health-care providers should consider making shots available for people 50 and older and those who live with people in high-risk groups.

The high-risk categories include people 65 and older, children 6-23 months old, pregnant women, people of any age with chronic health conditions, organ-transplant recipients and health-care workers who provide direct patient care.

The new CDC recommendations came out Dec. 17. The governor's announcement was made Wednesday. The recommendations aren't binding.

Expanding vaccine eligibility could reduce the severity of the flu season in Illinois, Blagojevich aide Abby Ottenhoff said. In an average year, about 3,000 Illinoisans die from influenza and pneumonia.

The expansion of eligibility also could help health-care providers who already have bought vaccine doses and are worried about it going to waste.

It's not too late to get a flu shot, said Ray Cooke, director of the Springfield Department of Public Health. People who receive the shot develop immunities in one to three weeks. Flu activity in Illinois continues to be low, but flu-related viruses still could pick up in January or February, Cooke said.

The governor said in a news re-

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SHOTS

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lease that he is still trying to purchase nearly 300,000 doses of vaccine from Germany and France because many Illinoisans in the high-risk groups — the state's highest priority for vaccinations — haven't received shots.

Ottenhoff said the governor isn't contradicting himself when he says he wants to provide flu vaccine to people younger than 65 in some parts of the state while giving top-priority for flu shots to senior citizens and others at high-risk. Ottenhoff said many high-risk people will benefit if the younger people who care for them or with whom they work are vaccinated.

The Springfield Health Department, 1415 E. Jefferson St., has

fewer than 300 vaccine doses left, Cooke said. The department will make appointments for flu shots for people who fit into the two new categories if they call the department at 789-2182, he said.

Demand for flu shots from high-risk people dropped off significantly in late November, Cooke said, but the department continues to serve them during its vaccination clinics.

Beginning Monday, the Sangamon County Department of Public Health, 2501 N. Dirksen Parkway, will add the two new groups to its list of people eligible for flu shots, nurse Stephanie Standish said. The county has more than 1,000 vaccine doses left, she said.

The department's vaccine clinics are from 8:30 a.m. to noon and 1:30 to 6:30 p.m. Mondays and from 8:30 a.m. to noon and 1:30 to 4 p.m. Tuesdays through Fridays.

The departments will serve peo-

ple regardless of whether they live in Sangamon County. The shots cost \$18 apiece. People covered by Medicare, Part B or Medicaid won't be charged.

Dean Olsen can be reached at 788-1543 or dean.olsen@sj-r.com.

State may be left holding thousands of unused flu shots

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BY JIM RITTER
Health Reporter

Gov. Blagojevich looked like a hero when he announced last fall he had secured more than 250,000 flu shots at the height of the vaccine shortage.

But it now appears increasingly likely that the governor's nationally publicized effort will wind up costing taxpayers nearly \$2 million while providing little or no protection.

The state bought the vaccines in Europe, but the Food and Drug Administration has refused to approve their use here. And even if the FDA were to give its OK, it's doubtful many people would want the vaccine at this late date.

The flu season has gotten off to a slow start, and health officials say there's still time to get a shot. But demand has dropped sharply since last fall, when people waited hours for shots.

Local health departments have ordered only 940 doses for January, less than 1 percent of the 100,000 shots the state is entitled to under federal rationing.

Indeed, health departments are having trouble giving shots away. Last Saturday for example, the city had 2,000 free shots available for a clinic at McKinley Park, but fewer than 500 people showed up.

The state bought its vaccines from a wholesaler in the United Kingdom and secured several hundred thousand additional doses for New Mexico, New York and Cleveland.

Blagojevich asked the FDA on Oct. 26 to approve those vaccines.

"The FDA has not said yes, it's not said no, it's not said anything," said the governor's spokeswoman Abby Ottenhoff. "They keep asking questions that have already been answered."

Direct vs. middleman

The state bought vaccines made by Aventis and GlaxoSmithKline. Ottenhoff noted that the FDA is allowing another federal agency to import the GSK vaccine while denying such approval to Illinois.

"If they would do their job and allow us to do our job for our citizens, there would not be a problem," Ottenhoff said.

However, the federal government purchased vaccines directly from GlaxoSmithKline, while the state bought from a middleman. An FDA spokesman said it's safer to offer a vaccine "from known sources instead of unlicensed vaccine from sources that cannot be fully traced."

If it can't import the vaccines, the state may try to sell them in Europe. But this late in the season, it's unclear whether there'd be many buyers.

So far, there have been reports of flu in Cook County and isolated cases in the rest of the state, the Illinois Public Health Department said.

Last year, by comparison, flu cases already had peaked and begun tapering off by this time. However, the slow start doesn't necessarily mean there will be fewer or less-severe cases, said Dr. Julie Morita, the Chicago Public Health Department's immunization director.

To get a shot, call your doctor or local health department. In Chicago, call 311.

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TIMES
1-19-05

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Hynes says state won't pay for governor's vaccine deal

TRIB.
2-1-05

By Ray Long
Tribune staff reporter

SPRINGFIELD—State Comptroller Dan Hynes said he will refuse to let Illinois pay for European-made flu vaccine that Gov. Rod Blagojevich bought but can't import, adding yet another embarrassing twist to an initiative that the governor once heralded as a coup.

Hynes said Blagojevich exceeded his authority by ordering \$7 million worth of vaccine from a British wholesaler with-

out first obtaining federal approval to bring it into the U.S.

Most of the vaccine was destined for other states and cities, but Hynes said the governor's office had yet to provide any evidence that Blagojevich had signed deals with those governments to hold them liable for their share of the drugs.

The Illinois share of Blagojevich's European order, which federal regulators have not yet allowed him to import, was worth

PLEASE SEE VACCINE, PAGE 2

VACCINE: Blagojevich aides trying to resell shots

CONTINUED FROM PAGE 1

\$2.5 million.

"In this case, it just seems illogical for the governor's office to expect us to just pay \$2.5 million without questioning the deal that they struck," Hynes said. "Why are we paying \$2.5 million for flu vaccine that we may never see?"

"Why are we assuming the risk [when] the federal government doesn't approve of the vaccines being imported. And then, worst of all, why are we assuming the risk for supplying flu vaccines for citizens of other states and cities?"

Hynes also said the governor's request for the vaccine violated state law because he wanted to pay for the drugs out of funds earmarked for the state Department of Public Aid even though that agency was not involved in the deal.

Vaccine order defended

Blagojevich's spokeswoman Abby Ottenhoff said the governor was right to order the medicine when he did and the wholesaler deserved payment.

"We made a decision last fall in the midst of an emergency vaccine shortage not to sit back

and wait for help but instead to take aggressive steps to protect the public against what could have been a disastrous flu season," Ottenhoff said.

The governor's office plans to discuss the issue with Hynes, she said. One option Blagojevich's aides may bring up, Ottenhoff said, is taking legal action against the Bush administration for dragging its feet on a response to the governor's request for import approval.

The vaccine controversy is an outgrowth of a running battle that Blagojevich has waged for more than a year with the Bush administration over prescription drug imports. Last fall, after regulators shut down one of the two major suppliers of flu vaccine to the U.S., Blagojevich announced he had leveraged contacts in Europe to buy 700,000 doses for people in Illinois, New Mexico, Cleveland and New York City.

Because the flu season has been mild and many at-risk patients did not get shots, vaccine shortages never became as severe as feared. Last week, Illinois dropped its last restrictions on who could have access to the state's existing vaccine supply, a strong indicator that Blagojevich's emergency imports may never have been needed.

Aides to Blagojevich now say they are trying to resell the vaccine abroad but acknowledge that may be difficult this late in the flu season.

Hynes cited several reasons for his decision to cancel the vaccine purchase contract,

among them a clause contained in it that he said allows the state to reject payments if it encounters problems with the order beyond its control. Hynes said the FDA's refusal to let Illinois import the drugs would seem to fit that definition.

Hynes said his concern over the vaccine contract was an outgrowth of a far broader problem he had encountered with the administration's frequent disregard for timely submission of state vendor contract details.

As far back as last March, state Auditor General William Holland rebuked the administration for starting work on contracts, many of them worth millions of dollars, without submitting signed paperwork to be reviewed by other officials.

Hynes is required to review the legality and terms of contracts, which in general are supposed to be turned over to Hynes' office within 30 days of work commencing, according to aides to the comptroller.

Hynes said the flu vaccine contract covered services that were to begin Oct. 20, but the signed contract wasn't turned over to his office until Jan. 24.

Being tardy in filing the flu vaccine contract carries with it repercussions, Hynes said, ranging from whether the state was unduly taking risks with taxpayer money to making sure the governor had appropriate authority to pay for the vaccine.

Ottenhoff said the flu vaccine contract couldn't be turned over until January because it is "very unique and unprecedented." She said the law provides

exceptions for timely filing if quick action on a contract can benefit the state.

Even so, she said the administration had been talking with Hynes' office about the vaccine contract since October.

Alan Henry, a spokesman for Hynes, disputed that. "We don't know what discussion they're talking about," Henry said.

'Chronic' late filings

Hynes accused the administration of engaging in a "chronic and substantial" pattern of filing contracts late, saying agencies under the governor have missed more than 10,000 deadlines since Blagojevich took office in January 2003.

"It's sloppy and, quite honestly, it's arrogant," Hynes said. "It's arrogant because it reflects a mindset that filing contracts with the chief financial office is just a perfunctory task, not a matter of checks and balances."

Hynes said the administration has on occasion even submitted contracts after all work was performed, stifling the comptroller's ability to scrutinize them.

Some of the contracts that the administration has delayed completely filing with Hynes were with politically connected vendors or for services that have been controversial. They included a contract worth \$200 million annually for state employee drug benefits with Caremark Inc., a firm accused in a whistleblower lawsuit of illegally selling used drugs in Illinois and now under investigation by Atty. Gen. Lisa Madigan.

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Hynes refuses to pay for vaccine

Comptroller says ordering flu shots from Europe was 'bad deal'

BY DAVE MCKINNEY
Sun-Times Springfield Bureau Chief

SPRINGFIELD — In a stinging rebuke to Gov. Blagojevich, state Comptroller Dan Hynes refused Monday to pay a British company \$2.5 million for unused European flu shots the governor ordered but that never reached Illinois.

The governor has tried to wriggle out of the public relations jam by blaming the U.S. Food and Drug Administration for not backing his bid to import 256,000 doses of the medicine last fall to alleviate an expected vaccine shortage.

But with the flu season about half over and no shots in hand, the state's chief financial officer pointed the finger squarely at the Democratic governor for presiding over a poorly executed transaction with England-based Ecosse Hospital Products Ltd.

"This is a bad deal," Hynes said. "This was from the beginning a

bad deal, where we were putting the cart before the horse, saying we'll pay for vaccines even if we don't get FDA approval. It was poorly designed and poorly implemented. It's just bad government.

"I just don't understand why there's just a feeling of resignation that we have to pay for these flu vaccines when we aren't going to receive them."

Gov's office: Firm 'should be paid'

Hinting at a lawsuit against the FDA, Blagojevich's office seemed taken aback by Hynes' maneuver and stuck by its belief that Ecosse deserves to be paid, regardless of whether state government ever gets its shipment of drugs from Europe.

"The company that helped us find and purchase flu vaccine was acting in good faith, trying to help Illinois avoid a public health crisis," Blagojevich spokeswoman Abby Ottenhoff said. "We believe they should be paid for their work."

The administration believes Hynes' criticism is unfair and feels "a little bit surprised," Ottenhoff said.

"We've been engaged in discussions with the comptroller's office

since October about making the payment for securing additional flu vaccines. We'll follow up with him on his decision and look at what our options might be, including taking legal action against the FDA for not responding to our request in a timely manner," she said.

The U.K.-based company couldn't be reached Monday for response to Hynes' move to withhold payment.

In a letter to Blagojevich's office, Hynes' chief of staff Keith Taylor criticized the administration for being slow to produce the contract with Ecosse, despite Ottenhoff's assertion that talks about

the deal had occurred in October. The administration passed along the contract to Hynes' office last week, three months after a deal already had been struck with the company.

Exit clause found

Taylor said a review of the pact found an exit clause that would enable the state to back out without paying. The FDA's failure to approve the importation plan, he said, would be "ample justification" to invoke a provision allowing Illinois to terminate the deal for "unforeseeable circumstances beyond its reasonable control, including ...

government regulation."

Hynes' office also took issue with the possibility that Illinois could be liable for vaccine payments on behalf of New Mexico, New York City and Cleveland, which partnered with Blagojevich but found flu shots through other means and now no longer need the medicine.

But Ottenhoff said each of those governments has signaled a commitment to pay for their share of the ill-fated Blagojevich importation plan, which cost slightly more than a combined \$6 million among the city and state governments.

A top Republican sided with Hynes in the dispute, and questioned why Blagojevich wouldn't simply look for a way out of the contract rather than threatening to open a new legal war against the FDA with no guarantees for success.

"It's bizarre they're arguing to pay the bill so they can sue the federal government," said Sen. Steve Rauschenberger (R-Elgin), one of several Republicans weighing a run for governor in 2006. "It sounds to me it's more like publicity they're interested in than paying for the vaccine. I'm proud of the comptroller for carefully reviewing this."

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since October about making the payment for securing additional flu vaccines. We'll follow up with him on his decision and look at what our options might be, including taking legal action against the FDA for not responding to our request in a timely manner," she said.

The U.K.-based company couldn't be reached Monday for response to Hynes' move to withhold payment.

In a letter to Blagojevich's office, Hynes' chief of staff Keith Taylor criticized the administration for being slow to produce the contract with Ecosse, despite Ottenhoff's assertion that talks about

the deal had occurred in October. The administration passed along the contract to Hynes' office only last week, three months after a deal already had been struck with the company.

Exit clause found

Taylor said a review of the pact found an exit clause that would enable the state to back out without paying. The FDA's failure to approve the importation plan, he said, would be "ample justification" to invoke a provision allowing Illinois to terminate the deal for "unforeseeable circumstances beyond its reasonable control, including ...

government regulation."

Hynes' office also took issue with the possibility that Illinois could be liable for vaccine payments on behalf of New Mexico, New York City and Cleveland, which partnered with Blagojevich but found flu shots through other means and now no longer need the medicine.

But Ottenhoff said each of those governments has signaled a commitment to pay for their share of the ill-fated Blagojevich importation plan, which cost slightly more than a combined \$6 million among the city and state governments.

A top Republican sided with Hynes in the dispute, and questioned why Blagojevich wouldn't simply look for a way out of the contract rather than threatening to open a new legal war against the FDA with no guarantees for success.

"It's bizarre they're arguing to pay the bill so they can sue the federal government," said Sen. Steve Rauschenberger (R-Elgin), one of several Republicans weighing a run for governor in 2006. "It sounds to me it's more like publicity they're interested in than paying for the vaccine. I'm proud of the comptroller for carefully reviewing this."

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The governor's six-shooter

Rod Blagojevich's *ready-fire-aim* approach to life may work on cowboy ranches. It may work on hockey rinks. It may even work in carnival popgun galleries. But it doesn't always work in the governor's office.

Last fall, amid all the talk of a flu shot shortage, Blagojevich got on his steed and galloped off to find some surplus vaccine. He did, in England, and emerged with 700,000 doses at \$10 a pop, enough to inoculate the at-risk populations in Illinois as well as in New Mexico, Cleveland and New York City, who asked to piggyback on his efforts. Illinois' share was \$2.5 million.

Problem is, there were a few details he ignored, such as first getting the contract approved, as required within 30 days, by the state comptroller's office. He got only gentlemen's agreements from the out-of-staters that they would purchase their share of the flu vaccine, potentially leaving Illinois taxpayers on the hook if the deal exploded.

The deal exploded.

The Food and Drug Administration hasn't approved the importation of the vaccine, the demand for the vaccine has subsided, and Illinois is left to pay at least its \$2.5 million share of the \$7 million deal. Deputy Gov. Bradley Tusk assures that the other buyers intend to pay their share. Let's hope.

Now, more embarrassment for Blagojevich: Illinois Comptroller Dan Hynes stated Monday that he won't let Illinois pay for the flu vaccine that never made its way across the Atlantic.

Blagojevich contends Hynes should pay the bill to avoid getting the state sued by the supplier; Hynes argues that an opt-out provision for unforeseeable circumstances allows the state to void the contract. Hynes apparently has read the contract. It's not yet clear if Blagojevich has.

Blagojevich has no one but himself to blame

for this mess. He was so eager to ride to the rescue—where are the cameras, by the way?—that this purchase scheme wasn't properly evaluated. It fits into a larger theme of Blagojevich playing fast and loose with state vendor contracts, particularly when it comes to deals that no one else knows about until they're done.

The comptroller's office has to give final sign-off before contract payments can be made. Agencies under the governor have missed the deadline to send contracts to the comptroller more than 10,000 times in just two years. A May report released by the state auditor also pointed out problems the governor's office has had getting its vendor contracts approved in a timely way.

Some examples: A \$17,000 photo-processing contract began a month before it was approved. A \$14,000 laundry services contract began 11 days before it was approved. A \$4,060 contract for reserved parking spaces started 10 days before it was approved. A \$17,200 contract for legal services began eight days before it was approved.

That goes beyond sloppiness. It goes beyond, as Tusk argues, "cash flow management" in a tight budget year. That's arrogance and hidden government.

Blagojevich regards Hynes as a check-cutter, nothing more. Hynes sees himself as the one standing up for the taxpayers. "This probably speaks more broadly about the nature of Rod and Dan Hynes," Tusk said. "Rod is not great at process, but I think he's pretty good at results. You look at Hynes, who's a total process guy. That's probably a good characteristic, but it's a clash of cultures."

Wrong time to make that argument, when the "not great at process" governor is pushing to make taxpayers pick up the \$2.5 million tab for something they didn't get. Let's see more thought process, fewer press releases.