

**JOINT PERFORMANCE REVIEW COMMITTEE****OCTOBER 28, 2015****MINUTES**

The Joint Performance Review Committee met Wednesday, October 28, 2015 at 1:00 p.m. in Room A, Mac Building, Little Rock, Arkansas.

Committee members present were Senators Alan Clark, Co-Chair, Linda Collins-Smith, John Cooper, Missy Irvin, Terry Rice, and Representatives Kim Hammer, Co-Chair, Scott Baltz, Jana Della Rosa, Lance Eads, Kenneth Ferguson, Charlene Fite, Michelle Gray, Mary "Prissy" Hickerson, Milton Nicks, Jr., Dwight Tosh, David Whitaker, and Richard Womack.

Other legislators present were Senators Eddie Cheatham, Scott Flippo, Blake Johnson, Greg Standridge, Larry Teague, and Representatives Charles Armstrong, Mary Bentley, Justin Boyd, Jim Dotson, Dan Douglas, Joe Farrer, Deborah Ferguson, David Fielding, Justin Gonzales, Mike Holcomb, Joe Jett, Kelley Linck, Ron McNair, James Ratliff, Marcus Richmond, Sue Scott, James Sorvillo, Nelda Speaks, and DeAnn Vaught.

**Call to Order**

Representative Hammer called the meeting to order.

**Opening Remarks by Senator Alan Clark, and Representative Kim Hammer, Co-Chairs, JPR Committee**

Representative Hammer reviewed the duties and responsibilities of the JPR Committee as listed by statute under Subchapter 9. A copy of the statute was provided as a handout. He read through the duties as a reminder to members regarding subject matters under review.

**Approval of Minutes – October 1-2, 2015 [Exhibit C, C-1]**

A motion to approve the minutes of the October 1-2, 2015 JPR Committee meetings was made by Senator John Cooper and seconded by Representative Mary "Prissy" Hickerson. The motion carried.

**Review of the Decision by the U.S. Supreme Court in the Matter of the FTC versus the North Carolina Board of Dental Examiners and its Impact on Scope of Practice in the Medical Profession [Exhibit D, D-1]**

Senator Clark recognized Dan Greenberg, President and attorney, Advance Arkansas Institute. Mr. Greenberg gave a PowerPoint presentation summarizing the decision by the U.S. Supreme Court in February, 2015 regarding litigation between the North Carolina State Board of Dental Examiners and the Federal Trade Commission. Mr. Greenberg said this litigation will have an impact on boards and commissions concerning immunity from anti-trust laws. The Court's decision does not guarantee that boards and commissions are defined as government bodies and immune from anti-trust regulation. When a board or commission has a controlling number of practicing and regulated professions, active supervision by state government is necessary to avoid antitrust liability. Mr. Greenberg said the Court defines active supervision as flexible and context-dependent. Minimum

requirements of active supervision require a supervisor to review content of a regulation and the ability to veto or modify the regulation. Mr. Greenberg gave the following suggestions of modifications to the rules and regulation of the review process:

- Language from the U.S. Supreme Court decision should be included in law
- Approval by the Legislative Council
- Scrutiny performed by legislative staff of any form of anti-competitive or anti-consumer language

Mr. Greenberg discussed proposed legislation called the Boards and Commissions Immunity Act, which would change the structure of state government regarding boards and commission rules and regulations. The proposed legislation would provide similar monitoring currently used in other states who have an Office of Regulatory Affairs. The idea is that personnel in the Governor's office, the Attorney General's office, or the Bureau of Legislative Research would scrutinize proposed regulations to help avoid negative impact on competitiveness, job creation, and not conflict with antitrust laws.

### **Continued Review of the Information Network of Arkansas (INA) Regarding State Contracts and Fees [Exhibit E]**

Representative Hammer recognized the following presenters:

- Matthew Cashion, Independent Insurance Agents, INA Board Vice Chair
- Bob Sanders, General Manager, INA
- Janet Harris, Director of Operations, INA
- Harold Evans, Arkansas Bar Association, INA Board member

Mr. Cashion told legislators he serves as Vice Chair of the INA board, which consists of twelve members defined by statute. He said the statute outlines the duties and makeup of the board, which includes members from the Arkansas Economic Development Commission, the Secretary of State's office, the Department of Information Systems, the Department of Finance and Administration, the Arkansas Bar Association, the Arkansas Library Association, and four participating associations chosen by the Governor.

Representative Hammer recognized Bob Sanders who responded to questions asked by committee members at the JPR meeting on September 9, 2015. Mr. Sanders said the contract for network manager services was awarded to the Analysts International Corporation (AIC) in 1997, and again in 2011. The current contract will expire in 2018. Mr. Sanders described the contract, which is based on a self-funded business model through a public/private partnership between the INA Board and AIC. The duties of the twelve-member board include providing oversight and approve fees. The mission of INA is defined by legislation to provide access to software expertise for citizens and businesses through state government agencies, in particular, eGovernment services

Representative Hammer recognized Janet Harris. Ms. Harris gave an overview of the self-funded business model used by INA. The self-funded model is based on an enterprise-wide approach encompassing a number of government agencies, boards and commissions who do not have internal resources for online services and applications. She said the majority of services provided by INA are funded through convenience fees. The self-funded model looks at the successful self-funded agency transactions with a large

volume to generate sufficient revenue to support the enterprise. The transaction fees are pooled together to serve all agencies. Transactional revenue helps cover the costs for all operations across the enterprise. Ms. Harris gave an example of an average transaction and fee for accountants to renew their license with the State Board of Accountancy:

- The statutory license renewal fee is \$85.00
- Online license renewal charge is \$3.55
- Average cost for a paper based renewal transaction is \$17.00

### **Continued Review of the CoCENTRIX Licensing Agreement with the AR Department of Human Services [Exhibit F]**

Representative Hammer swore in under oath the following presenters:

- Mary Ahdab, CEO, CoCENTRIX
- Gregg Barker, CTO, CoCENTRIX
- Craig Cloud, Director, Division of Aging and Adult Services, DHS
- James Brader, Director, Developmental Disabilities Services (DDS), DHS
- Mark White, Deputy Director, DHS
- Tim Lampe, Director, Office of Quality Assurance, DHS

Mr. Cloud gave an update of the project audit performed by the Department of Human Services (DHS). He said the majority of the audit for the universal assessment testing project has been completed. DHS believes the completion of the audit will confirm the total project budget of \$9.5 million is sufficient to ensure delivery of Phase 1. With the Go-Live of Phase 1, DHS will assess the performance of the product. Mr. Cloud said the SHI platform can no longer support information technology contracts. Should DHS choose to contract with CoCENTRIX for Phase II and Phase III of the project, DHS will have to proceed with a sole source contract. This contract would include defined deliverables, defined work product, timeframes, and allow for completion of the product under the initial \$16.2 million cap established for the project.

Mr. Gregg Barker gave a PowerPoint presentation explaining the different phases of Scope of Work CoCENTRIX has delivered. Mr. Barker said it is the opinion of CoCENTRIX that the contract for Phase 0 was a separate contract, with a separate Scope of Work. He said CoCENTRIX was brought into the project as the Coordinated Care Platform (CCP) to develop the Universal Assessment Tool (UAT) for community based care, in-home care, outpatient day treatment facilities, sheltered employment workshops, inpatient residential, and long-term care facilities. Mr. Barker said that when CoCENTRIX entered into a new contract for Phase 1, additional deliverables were requested. He said CoCENTRIX worked with DHS to build the assessment tool and provide analysis until they were asked to stop the project. He also said that although the deliverables were not well-defined by DHS, the company has worked with DHS to make changes as they were requested. He stated the company believes they have delivered everything agreed upon for Phase 1 of the project.

Mark White, Deputy Director, DHS, was asked what was the number of vendors who bid on the UAT project. Mr. White said he understood that an agreement with CoCENTRIX was

procured through the Western States Contract Alliance (WSCA) contract, a state cooperative purchasing contract.

Tim Lampe Project Director, Program Management Office, DHS, was recognized by Representative Hammer. In response to questions by committee members, Mr. Lampe said a licensing agreement was signed on June 3, 2014 with CoCENTRIX for work on Phase 1 of the UAT project.

Mary Ahdap, CEO, CoCENTRIX was asked to respond to questions raised regarding CoCENTRIX writing a Scope of Work (SOW) for the UAT project. Ms. Ahdap said that when CoCENTRIX began working with DHS, they were given a list of requirements which CoCENTRIX used to prepare a proposal. She said CoCENTRIX did not develop the requirements.

Charlie Green, Director, Behavioral Health Services, DHS was sworn in under oath by Representative Hammer. Mr. Green responded to questions concerning the contract DHS entered into with CoCENTRIX in 2014. Mr. Green said Anna Lansky, former Assistant Director for Program Management, Division of Developmental Disabilities Services, DHS signed the contract. Mr. Green said Ms. Lansky was the subject matter expert at that time. However, Ms. Lansky did not have expertise in software or information technology.

Jane Benton, former Administrator, Office of State Procurement (OSP), Arkansas Department of Finance and Administration, was sworn in under oath by Representative Hammer. Ms. Benton was asked what was the role of OSP at the time the DHS contract was negotiated with CoCENTRIX. She stated OSP had no involvement.

John Selig, Director, DHS was sworn in under oath by Representative Hammer. Mr. Selig was asked his opinion of placing the project on hold until completion of Phase 1 is confirmed and a settlement with CoCENTRIX is negotiated for any outstanding work or payments.

Mr. Selig confirmed his agreement to hold the project to ensure testing confirms Phase 1 is operational, and that no additional Phases will be pursued that are based on a time and materials contract.

Representative Hammer told committee members a recommendation will be made concerning the project at the JPR meeting scheduled for October 29, 2015.

There being no further business, the meeting adjourned at 4:15 p.m.