

JOINT PERFORMANCE REVIEW COMMITTEE

OCTOBER 29, 2015

MINUTES

The Joint Performance Review Committee met Thursday, October 29, 2015 in Room A, Mac Building, Little Rock, Arkansas.

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

Other legislators present were Senators Eddie Cheatham, Jonathan Dismang, and Blake Johnson, and Representatives Charles Armstrong, Jim Dotson, Trevor Drown, Jon Eubanks, David Fielding, David Hillman, Joe Jett, Greg Leding, Kelley Linck, Frederick Love, George McGill, John Payton, Sue Scott, James Sorvillo, and Nelda Speaks,

Call to Order

Representative Hammer called the meeting to order.

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

A motion was made by Senator Clark and seconded by Representative Tosh directing the Arkansas Department of Human Services (DHS):

- to suspend its current contract with CoCENTRIX
- to conduct testing on Phase 0 and Phase 1 deliverables of the original CoCENTRIX contract with DHS
- to negotiate disputed payment amounts regarding completion of Phase 0 and Phase 1
- to present an update to the JPR Committee at its meeting scheduled for Monday, November 9, 2015

The motion carried.

Representative Hammer told legislators the Committee Co-Chairs will officially request the Division of Legislative Audit to conduct an audit of the CoCENTRIX licensing agreement to ensure all aspects of the contract, including services delivered and billed to the state, are in compliance with the terms of the agreement. The motion to approve that the request be sent to Legislative Audit was made by Senator Clark. The motion was seconded by Representative Tosh. The motion carried.

Discussion of the Contract Negotiations for the Medicaid Enrollment and Eligibility (EEF) Platform, Arkansas Department of Human Services [Exhibit C]

Albert Barclay, Director for Program Integrity, Noridian Healthcare Solutions, Inc. (Noridian) was sworn in under oath by Representative Hammer. Mr. Barclay gave a PowerPoint presentation and told legislators that he led the contract negotiations with DHS on behalf of Noridian regarding the design and development of the Arkansas Eligibility and Enrollment Framework (EEF) platform. Mr. Barclay gave the following summary:

- August, 2012 Noridian submitted a proposal in response to a Request for Proposal (RFP) issued by DHS in July, 2012
- October 31, 2012 DHS issued a term contract to Noridian
- November 9, 2012 DHS provided Noridian with a 61-page draft contract that bore little resemblance to the original RFP terms and conditions which Noridian based its proposal on

Mr. Barclay highlighted changes added to the November 9, 2012 draft contract:

- the November 9, 2012 draft included a broad indemnity clause by Noridian in favor of Arkansas significantly increasing Noridian's potential liability with the state
- the RFP original terms and conditions limited indemnification for patent infringement and security breaches
- the November 9 draft allowed DHS to cancel the contract whenever it wanted and was unclear if Noridian would be compensated if that occurred
- the November 9 draft prohibited Noridian from firing personnel without the approval of DHS, which unduly interfered with Noridian's ability to manage its workforce
- the November 9 draft required Noridian to permit DHS or another contractor to hire Noridian employees at the end of the project

Mr. Barclay indicated that a significant obstacle in the negotiations was the use of function points by DHS to manage the project. Noridian responded to the November 9 draft with proposed revisions. DHS responded with further drafts that added even more new provisions that were not in the RFP. During February, 2013 the parties exchanged dozens of drafts, met by telephone, and in person several times to discuss proposed contract language. Negotiations stretched into December, 2012 and January, 2013. DHS insisted on significant penalties and liquidated damages for late delivery. Noridian did not believe it should accept responsibility for time lost renegotiating the RFP terms on which its proposal was based. On February 14, 2014, DHS terminated contract negotiations with Noridian when the parties could not reach agreement on several key terms.

Richard Wyatt, Chief Information Officer (CIO), Department of Human Services, was sworn in under oath by Representative Hammer. Mr. Wyatt was asked to discuss the changes made to the original RFP proposal, also who was Todd Shrub and what was his role in the negotiations. Mr. Wyatt said the changes were primarily performance indicators and Todd Shrub was an employee of Computer Aid, Inc. (CAI) in their healthcare division, who previously worked with DHS developing the RFP. Mr. Wyatt was asked if Mr. Shrub is currently employed by DHS. Mr. Wyatt said Mr. Shrub was an employee of CAI who then left the project in April, 2014 to go to work for EngagePoint.

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 to discuss her role during contract negotiations between DHS and Noridian. Ms. Benton described the RFP process used by OSP:

- o A buyer was assigned and OSP drafted the RFP, working with the agency and the supplier
- o State procurement personnel trained a DHS evaluation committee to evaluate the RFP
- o DHS made a recommendation to award the RFP to Noridian
- o OSP issued an outline agreement/purchase order
- o January, 2014 OSP was contacted by DHS regarding its inability to reach an agreement with Noridian
- o February 3 and 4, 2014, OSP through a negotiation team, attempted to reach an agreement with Noridian
- o Due to significant changes by DHS to the original RFP, negotiations failed
- o Discussions were held with DHS and a decision was made that DHS would have to take charge of the project due to the limited timeframe and obtain another vendor

Amy Caro, Sector Vice President and General Manager, Health Division, Northrop Grumman Information Systems, was sworn in under oath by Representative Hammer. Ms. Caro was asked about communications with DHS because Northrop Grumman was the second ranked vendor and did they ask DHS to be considered when negotiations failed with Noridian. Ms. Caro said her company sent an e-mail to Mr. Wyatt and Janie Huddleston, a former DHS employee, stating the willingness of Northrup Grumman to negotiate for the EEF contract. Ms. Caro was asked if Northrup Grumman believed it was too late to negotiate and sign a contract by the end of February, 2014. Ms. Caro stated the company sent correspondence to DHS stating their willingness to negotiate a fixed-cost contract that would meet the timeframe.

Jeff Dean, Chief Operating Officer, Department of Information Systems and Interim Director, CIO for DHS, was sworn in under oath by Representative Hammer. Mr. Dean was asked to discuss the role of DIS during the contract negotiations. Mr. Dean stated DIS offered assistance for system support and development of work stations. Representative Hammer made a motion to refer this matter in its entirety to the Division of Legislative Audit for a full audit. The motion was seconded by Senator Collins-Smith. The motion carried.

John Selig, Director, DHS was sworn in under oath by Representative Hammer. Mr. Selig was asked if DHS would consider requests made by vendors associated with the EEF project who ask for a letter of recommendation. He said DHS is required to give their honest opinion of the work done by a vendor when writing a letter.

Presentation by the Institute for Organizational Excellence-University of Texas at Austin Regarding Their "Survey of Employee Engagement" (SEE) Assessment Tool Used by State Agencies, Businesses, and Industry to Assess Their Strengths and Concerns, Including the 360-Degree Leadership Assessment [Exhibit D, D-1, Handout]

Representative Hammer recognized Dr. Michael Lauderdale, the School of Social Work, and Dr. Noel Landuyt, Institute for Organizational Excellence (IOE) , University of Texas at Austin. Dr. Lauderdale told legislators the IOE originated at the request from the Governor of Texas in 1979 to perform an assessment of state agencies. He said the IOE work is performed through contracts with individual agencies. Dr. Landuyt said the IOE provides research for approximately 35 states, with Texas as their largest client. The assessments performed are based on the premise that strong state agencies have ethical and responsible leaders who create a more engaged workforce. The assessments have three measurements:

- Leadership based on external and internal data
- Strategy for implementing continuous improvement
- Building sound organizations through solid data, including feedback from employees

Dr. Landuyt said the State of Texas requires state agencies to submit a five-year strategic plan every two years. The agencies perform assessments of human resources and perform an employee engagement survey. The agencies contract directly with the IOE and assign a liaison who works directly with the IOE. Additionally, there are computer programmers, graduate students, and staff who work with the agencies to prepare the survey. The survey is customized for the specific divisions and departments within an agency. Agency administrators make employees aware of the survey. Dr. Landuyt used the example of the Texas Department of Motor Vehicle and presented a video used by that agency to communicate to employees the importance of completing the survey. Agencies are able to monitor response rates in real-time to determine employee participation. Once the data is tabulated, algorithms are run within six to eight weeks, creating multiple reports. The reports are then provided to the agency. The reports provide a breakdown of data, comparative and benchmark data, highlights key factors, and lists turnover rates. The report gives the agency a performance review. Some agencies are required to review risk areas and create intervention plans.

Dr. Landuyt said the IOE began providing agency reports to the Texas Senate Finance Committee and the House Appropriations Committee in 2002. State legislators receive a workforce summary sheet, including survey responses, turnover, and retention data on specific agencies. State legislators also receive data on state employees specific to their district. An additional survey is provided to the leadership, plus a 360° assessment. The 360° assessment is reviewed by supervisor peer groups and the employees who report to them. Dr. Landuyt said this assessment provides an internal review of managerial and supervisory skills.

Kay Barnhill, State Personnel Administrator, Department of Finance and Administration, was asked if there are services in Arkansas that duplicate these types of assessments provided by Dr. Lauderdale and Dr. Landuyt's organization. Ms. Barnhill said Arkansas

does not have these types of services. She did say she is currently serving on a Task Force directed by the Arkansas State Employee Association to study four large Arkansas state agencies: DF&A, the Department of Health, the Department of Human Services, and the Department of Parks and Tourism. The study will focus on workforce retention and employee satisfaction.

Legislators discussed the costs of the program. Dr. Lauderdale was asked to perform a sample review of the Arkansas Department of Finance and Administration and the Department of Human Services and prepare an estimate. The Committee requested that the professors prepare a presentation to be given at a future JPR Committee meeting.

Senator Clark announced JPR Committee meetings scheduled for November 4, November 5, and November 9, 2015.

There being no further business, the meeting adjourned at 12:15 p.m.

