

MINUTES

JOINT COMMITTEE ON KANSAS SECURITY

October 10, 2005
Room 123-S—Statehouse

Members Present

Representative Mario Goico, Chairman
Senator Jay Emler, Vice Chairman
Representative Judith Loganbill, Ranking Minority Member
Senator Nick Jordan
Senator Chris Steineger
Representative Carl Krehbiel
Representative Julie Menghini

Members Absent

Senator Jim Barone
Senator Carolyn McGinn
Representative Joann Flower

Staff

Amy VanHouse, Kansas Legislative Research Department
Athena Andaya, Kansas Legislative Research Department
Reagan Cussimano, Kansas Legislative Research Department
Lisa Montgomery, Revisor of Statutes Office
Rose Marie Glatt, Committee Secretary

Conferees

Chris Howe, Department of Administration
Captain Mark Bruce, Kansas Highway Patrol
Krishna Narayan, Fisher Scientific
Bob Dool, Mid-Continent Safety
John Hoffman, Zink Safety, Overland Park
Chief John Lloyd, Kansas Association of Fire Chiefs, Wellington
Jerry Boswell, HazMed Concepts, Inc., Overland Park
Mike Weis, Weis Fire and Safety
Scott J. Schneider, J.D. (written testimony only)
Mike Selves, Kansas Emergency Management Department, Johnson County
Kyle Smith, Kansas Bureau of Investigation
Steve Kearney, Representative of State Lodge of Fraternal Order of Police and Kansas State Troopers Association

Morning Session

The meeting was called to order by Representative Mario Goico, Chairman, at 10:15 a.m., on Monday, October 10, 2005, in Room 123-S of the Statehouse.

Representative Menghini moved that the minutes of the September 17, 2005, meeting be approved, and Senator Emler seconded. Motion passed.

Procurement Process of Homeland Security Equipment

The Chairman opened the public hearing and invited Chris Howe, Director of Purchases, Department of Administration, to provide an overview of the Fisher Scientific contract (April 2001 - December, 2005) and answer related questions. Mr. Howe described the contract as a catalog-based contract that utilizes a request for proposal process. The industry has evolved significantly since September 11, 2001, when additional moneys became available through Homeland Security. He described discussions with Fisher Scientific in which he suggested that products from Kansas manufacturers be included in Fisher's sales catalogs.

Discussion and questions followed his overview, and included inquiries about the use, process, and administration of waivers. There have been no requests for waivers for an off-contract purchase from any state agency related to homeland security. Questions regarding the public use of the Fisher website, to determine product availability and prices, were raised. Senator Steineger requested a printout of products offered and their prices for Committee members. Mr. Howe stated that he would work with the Highway Patrol and Fisher Scientific to provide that data.

Captain Mark Bruce, Kansas Highway Patrol, provided background on the state's utilization of Fisher Scientific to acquire equipment with grant funds for 105 counties. He spoke of the efficiency of the procurement process and called attention to two documents: "*An Audit of Distributing and Spending First Responder Grant Funds*," which ranked Kansas second nationally in providing Federal Fiscal Year 2002 funds to its response community, and "*A Report from the Task Force on State and Local Homeland Security Funding*," in which Kansas was recognized nationally as following "best practice" in the overall management of its grant program (Attachment 1).

Discussion followed regarding possible problems related to purchasing only through Fisher Scientific, compatibility of equipment from unauthorized vendors, concern with Fisher having a monopoly, the software tracking system, accountability through audit of the procurement process, and possible hidden costs of research and development. Captain Bruce stated that the Highway Patrol had never received a waiver request from any state agency.

Krishna Narayan, Vice President/General Manager, Fisher Safety, provided background information on Fisher Scientific, which both manufactures and distributes products. Fisher Safety is a distribution company with over a decade of experience providing products that protect first responders. He introduced additional Fisher staff members in attendance: Shirley Allen, Safety; Pat Cockrill, Account Manager; and George Himmes, Midwest Region Manager.

He presented an executive review of the Fisher Quartermaster program for Kansas that included:

- Benefits of the grant administration process;
- Best practices programs;

- Website for procurement and reporting processes;
- Products and equipment;
- Operations/reporting tools;
- Benefits for Kansas;
- Data on how Fisher supports the Kansas economy and businesses;
- Kansas' contract savings and value-added features; and
- Contact information (Attachment 2).

Discussions and questions followed that included the deadline date for the contract of November 30, 2005, criteria for product inclusion in the catalog, the procurement process, and research and development costs.

Bob Dool, Chairman and owner, Mid-Continent Safety, appeared before the Committee to delineate eight reasons why he believed the Fisher Scientific state contract was unfair to local businesses. He stated that since September 11, 2001, his company had not been able to do business with long-standing, valued customers in the State of Kansas. He was seeking the right to sell to those customers his products and services, in cases where his company can offer products that Fisher does not have access to, or where his company can offer better value and support. He concluded by stating that the taxpayers are the losers because there is no competitive opportunity and virtually no service. He gave several scenarios where merchants were forced to buy products at inflated prices, due to contract guidelines (Attachment 3).

John Hoffman, Sales Manager, Zink Safety, Overland Park, stated that the Zink Safety company has many contracts with companies and governmental agencies throughout Kansas for safety equipment and services. Many of the manufacturers that the company represents informed them that the manufacturers had recommended Zink as a supplier for items that Fisher is not set up to sell in Kansas; however, they had not been added to their catalog. Another issue is the lack of training provided by Fisher and on numerous occasions, Zink has received calls for training, although they did not sell the products. He requested a better check-and-balance system on the items purchased from Fisher (Attachment 4).

Chief John Lloyd, President, Kansas Association of Fire Chiefs, spoke to the Committee regarding concerns of fire chiefs across the state. He was not aware of the local option, through the use of waivers, to obtain equipment from other vendors when those items are not in the catalog or the costs are considerably less. His concerns included: lack of training provided by Fisher while local vendors train and provide service without reimbursement, difficulty in paper tracing of titles for equipment purchased through Fisher, and compatibility of equipment from one region to another.

Discussion followed regarding Chief Lloyd's experience with inflated acquisition costs of Fisher products compared to locally purchased equipment, and lack of educational procurement processes from the Highway Patrol. Chairman Goico requested that Chris Howe and Captain Bruce send a copy of the educational material that had been distributed to the end purchasers regarding the Fisher contract. The Chairman recessed the Committee for lunch.

Afternoon Session

Chairman Goico reconvened the meeting at 1:40 p.m.

Jerry Boswell, HazMed Concepts, Inc., Overland Park, stated that his background was in hospital management and with patients that have been exposed to hazardous substances. His observations from the field were that there was a lack of training and education for hospital personnel and that there had been many occurrences where inappropriate equipment had been supplied to hospitals.

Mike Weis, President, Weis Fire and Safety, testified that he believed that the Fisher Scientific contract excludes many Kansas companies from supplying products to long-standing customers. Many of his company's customers have stated that they had to pay more and there was no service behind the products. He concluded by stating that it was not prudent use of tax dollars when the customer can purchase products for considerably less from local vendors instead of through a national company (Attachment 5).

The written testimony of Scott J. Schneider, J.D., Government Relations Director, City of Wichita, regarding how the resources for homeland security were allocated, was read by Ms. VanHouse. Included were the following issues:

- Purchasing power was affected when purchasing was done through a single vendor;
- Considerable time delays occurred for the purchase of specialty equipment that Fisher does not routinely handle; and
- Cumbersome bureaucratic processes resulted from lack of local control (Attachment 6).

Mike Selves, Emergency Management and Homeland Security Director, Johnson County, delineated various positions and tasks forces on which he had served. He also explained that he had recommended that Kansas be considered a model on how to manage procurement processes. This was a result of learning of the many difficult issues other states had experienced. He explained many of the benefits of the existing central ordering system and recommended that, although there have been problems, they are manageable and can be addressed with time.

Discussion throughout the vendor's presentations resulted in Senator Emler's request to any conferees that official written documentation of allegations of overcharging be forwarded to staff for review at the next meeting. That documentation will be available to any interested parties and available for response. The intent of his request is to determine what is not working and correct those inadequacies.

Chairman Goico closed the public hearing on the procurement process of homeland security equipment.

Update on 2005 SB 25

Kyle Smith, Kansas Bureau of Investigation, provided background information on SB 25, a bill that was recommended by the Joint Committee on Kansas Security and passed the Senate 40-0 in the 2005 Session. Due to timing issues, it is still in the House Juvenile Justice and Corrections Committee. He provided a review of SB 25 which:

- Creates a new crime of terrorism;
- Creates a new crime of illegal use of weapons of mass destruction (WMD); and
- Creates a new crime of money laundering for furthering violations of terrorism or WMD.

He explained another idea that currently is being discussed in the criminal justice community regarding the stopping of a suspect. Without making an arrest, an officer may stop any person in a public place when such officer has reason to believe that a person is committing, has committed, or is about to be engaged in criminal activities, and demand their name and an explanation of their actions. Their identification could be checked against the many databases available to law enforcement today. In addition, when an officer has stopped a person and reasonably suspects the officer's personal safety requires it, such officer may frisk such person for firearms or other dangerous weapons. The officer may take and keep any weapons until completion of the questioning, then either return it or arrest such person. He suggested that similar language could be added to the existing Kansas statutes ([Attachment 7](#)).

The Committee requested that Mr. Smith work with the Revisor of Statutes office to draft legislation for the Committee's review.

Steve Kearney, representing the Fraternal Order of Police and the State Troopers Association, requested the Committee's endorsement of legislation for the 2006 Session. The bill would create an exception to the Open Records Act, protecting peace officer residential, familial, and other information, *i.e.*, photographs that would aid and assist those targeting these public servants. He included a copy of a similar law that was enacted in Ohio in 2000 and extended to firefighters and emergency medical technicians as well. He concluded by stating that we live in a time when law enforcement officers are looked at more closely by non-traditional organized crime, terrorists, or both and we should provide protection to those serving in the public arena ([Attachment 8](#)).

Representative Loganbill recommended that schools and religious affiliations be added to the list of exceptions. At the Chairman's request, Mr. Kearney agreed to work with the Revisor of Statutes office to draft language for a bill for the Committee's review at the November 7 meeting.

The next meeting is scheduled for Monday, November 7, 2005. The meeting recessed at 2:15 p.m. to walk to the 3rd floor of the Curtis State Office Building.

Tour of the Emergency Operations Center

The Committee reconvened at 2:35 p.m., in the Kansas Department of Health and Environment (KDHE) Emergency Operations Center (EOC)/Bioterrorism Conference Room. Dr. Howard Rodenberg welcomed everyone and explained how the center is used. He introduced staff members Mindee Reece, Director, Kansas Bioterrorism Program; Sandy Johnson, Operations Director; and Jeff Coen, Video Conference Technician/Infrastructure Services, and advised that they would explain the specific operations of the EOC.

Ms. Reece explained that the EOC serves as a resource for the entire agency and is used during health and environmental drills, exercises, and in response to real events. The state-of-the-art operations center will be used to manage KDHE's response to a terrorist attack with a biological or chemical weapon or other widespread public health crisis. She explained the layout and the equipment in the room. Material on the EOC was distributed to the Committee (Attachment 9).

Jeff Coen gave a live demonstration of the capability of videoconferencing and Sandy Johnson explained the role the EOC would play in providing a medical response to disasters. Susan Kang, Policy Director for KDHE, welcomed the Committee and suggested that any questions be sent to her for response.

The tour ended at 3:15 p.m.

Prepared by Rose Marie Glatt
Edited by Amy VanHouse

Approved by Committee on:

November 7, 2005

(date)