

MINUTES

JOINT COMMITTEE ON INFORMATION TECHNOLOGY

November 16-17, 2005
Room 526-S—Statehouse

Members Present

Representative John Faber, Chairperson
Senator Tim Huelskamp, Vice Chairperson
Senator Janis Lee
Senator Mike Peterson
Senator Vicki Schmidt
Representative Harold Lane
Representative Joe McLeland
Representative Jim Morrison

Staff

Don Heiman, Legislative Chief Information Technology Officer
Julian Efird, Kansas Legislative Research Department
Matt Spurgin, Kansas Legislative Research Department
Mary Torrence, Revisor of Statutes Office
Diana Lee, Revisor of Statutes Office
Gary Deeter, Committee Secretary

Conferees

Chris Howe, Director of Purchases, Kansas Department of Administration
Carmen Alldritt, Director of Vehicles, Kansas Department of Revenue (KDOR)
Alan Anderson, Chief of Driver's License Bureau, KDOR
Mavis Cockrell, Purchasing Manager, KDOR
Tim Blevins, Chief Information Officer, KDOR
Richard Koerth, Assistant Secretary, Kansas Department of Wildlife and Parks (KDWP)
Amy Thornton, Legal Counsel, KDWP
Cindy Livingston, Director of Administration, KDWP
Mike Hayden, Secretary of Wildlife and Parks
Karen Beard, Project Manager, KDWP
Denise Moore, Executive Chief Information Technology Officer
David Larson, Director of Computer Services, Kansas Legislature
Jeff Fraser, President, National Information Consortium (NIC)
Brad Bradley, Executive Vice-President, NIC

Chris Neff, Director, Integrated Marketing, NIC
Tracy Smith, General Manager, Kansas.Gov

**Wednesday, November 16, 2005
Morning Session**

Chris Howe, Director of Purchases, Kansas Department of Administration, reviewed the state's bidding, negotiating, and contracting procedures ([Attachment 1](#)). He said that in 1988 the Legislature enacted KSA 75-37,102 to establish guidelines for the information technology (IT) purchases. The process allows agencies to solicit, review, and analyze competitive proposals, then meet with vendors to confirm each vendor's ability to execute a contract as proposed. He referred to a negotiated procurement process, indicating that his agency is developing an IT-specific bid document which correlates with standards and provides better vendor-monitoring resources to help project managers track a project's progress. Regarding the Kansas Department of Wildlife and Parks' contract for the Automated License/Permit Issuance System, he stated that the project followed established protocols in selecting a vendor, Central Bank, which received the highest technical score and offered the lowest cost proposal. He acknowledged the vendor's delinquency in delivery of goods, but said the Division of Purchases had not been asked to assist in the matter. He further noted that the Division was not involved in the Kansas Department of Revenue's automated driver's license renewal project.

Carmen Alldritt, Director of Vehicles, KDOR, responded to Committee concerns and reviewed the agency's pilot project in Lawrence with the American Automobile Association (AAA) of Kansas. She indicated that the operation paralleled the partnership with 75 county treasurers' offices to provide driver's license renewals ([Attachment 2](#)). She testified that the agency has 37 driver's license offices located throughout Kansas which provide comprehensive driver's license and identification card services. She noted that many county treasurers' offices provide a variety of driver licensing services, but that the contract with AAA is limited to only standard driver's license renewals and excludes issuing new licenses, commercial licenses, duplicate licenses, or making name and address changes. She noted KDOR offices do not charge a service fee, but that most county treasurers' offices charge a service fee. AAA assesses a service fee of \$2.00. AAA has processed 1,500 renewals since May 2005. She noted that the agency's only costs are a photo machine (\$800) and a DSL line (\$300) for the Lawrence AAA office.

Members asked a number of questions. Alan Anderson, Chief of the Driver's License Bureau, said no layoffs occurred when a large number of full-time positions were eliminated in 2002. He said deciding which 13 satellite offices to close was determined by which county treasurers' offices were willing to offer license services and where KDOR employees lived. He said the agency owned the vision machines, but that the camera/computer/signing pad array was owned by Digimark Systems. KDOR has had a contract with Digimark since 1993.

Ms. Alldritt said AAA has limited access to KDOR's driver license system and their contract prohibits AAA from soliciting business from license renewal customers. Mr. Anderson said the contract with Digimark is renewable annually and will be extended until 2008, when a new request for proposals (RFP) will be issued. Don Heiman said he would classify the driver's license system and operation in branch locations around the state in county treasurers' offices plus AAA as a project, since including the vendor cost of approximately \$1.7 million annually would trip the project threshold. He noted that according to KSA 75-7201, an enterprise is considered a project if it is IT-related, uses

telecommunications, and provides services related to IT. Ms. Alldritt said the agency has plans to expand AAA office renewals to Wichita and perhaps Kansas City. Mavis Cockrell, Purchasing Manager, KDOR, noted that agencies are authorized to spend up to \$5,000 without bidding, and that if the AAA pilot project is expanded, the agency intends to issue an RFP. She said by statute a photo fee of \$4.00 is assessed for driver's licenses, with \$2.56 of that fee paying Digimark. Tim Blevins, Chief Information Officer, KDOR, said the AAA hardware and software provided was an addendum to the Digimark contract and that the Kansas driver's license system is one of the most secure systems in the country.

Richard Koerth, Assistant Secretary, KDWP, explained the development of a procurement process for the Kansas Online Automated License System, stating that the electronic licensing project followed all project guidelines and selected the vendor with the highest score and the lowest cost (Attachment 3). Amy Thornton, Legal Counsel, KDWP, said penalties in the contract were being assessed due to failure of timely delivery under terms of the contract's deadlines.

Mary Torrence, Revisor of Statutes Office, summarized the provisions of the KOALS contract between Central Bank and KDWP (Attachment 4). She noted that the contract can be terminated for cause and liquidated damages can be assessed for unsatisfactory performance, the latter of which includes:

- \$1,000 per day for failure to deliver a fully functional system by the implementation date;
- \$1,000 per day for interruptions in the system; and
- \$1,000 (\$2,000 in peak season) for any 20 minutes in a 24-hour period that the system is down except for scheduled maintenance.

Replying to a question, Mr. Koerth said the agency has assessed damages under the finding of unsatisfactory performance. Ms. Thornton said the agency plans to pursue the damages. Denise Moore, Executive CITO, noted that although the agency did not have up-front costs of at least \$250,000, the overall project cost required designation of KOALS as a project, and that the agency had followed all procedures in securing CITO approval.

Next, Denise Moore, Executive CITO, reviewed responses to the Committee's September requests for additional information (Attachments 5 and 6). Regarding Regents universities, Ms. Moore said use of Category (CAT) 3 wire varies from institution to institution. A member noted that CAT 3 wire is acceptable for voice, but not for data, and that some institutions which have purchased high-speed hardware then must configure that hardware at reduced capacity because of CAT 3 wire. Speaking of IT upgrades, Ms. Moore said hardware upgrades purchased incrementally are difficult to track. She noted that small projects usually are not reported as projects, and fee-for-service billings do not always show up on state purchasing records.

Members expressed a need for improved tracking to verify agency and Regents expenditures for IT. Regarding a former state vendor, BearingPoint (Kansas Department of Labor terminated its contract for cause), Ms. Moore said that the vendor had no other contracts with Kansas agencies. Ms. Moore referenced Attachments 7 and 8 regarding KDWP's contract with Central Bank and its subsidiary, ALS, stating that Secretary Hayden had provided an updated schedule and revised internal costs of \$122,000.

Representative McLeland requested that the JCIT recommend a Wiring Policy Endorsement to require that, for all new building construction or major remodeling, all state CAT 3 wire be replaced

with CAT 5 or higher wire (Attachment 9). Don Heiman explained that a policy endorsement would instruct the Kansas Chief Information Architect to revise the published IT architectural infrastructure standards enforced by CITO's, labeling CAT 3 as "twilight" technology. Such a policy would require IT projects to use CAT 5 wire and would result in a notification of all building architects to specify CAT 5 wire in their blueprints. Mr. Heiman said CAT 5 costs are about 10 percent higher than CAT 3 costs. *A motion was made (Representative McLeland), seconded (Representative Morrison), to recommend the wiring policy endorsement. Motion adopted.*

Afternoon Session

Ms. Alldritt returned to the Committee and provided a diagram of the connectivity between satellite offices and KDOR (Attachment 10). Members asked further questions regarding the Division of Vehicles' contract with Digimark, noting that 700,000 licenses at \$2.56 per license amounts to nearly \$2 million. Ms. Alldritt said Digimark receives \$2.56 per transaction out of the \$4.00 fee and that \$1.44 of each \$4.00 is retained in the Photo Fee Fund to pay operating costs of the agency. She said federal requirements for national identification standards for driver's licenses includes inter-connectivity among states and the federal government and documentation for first-time licensees. She said federal regulations will be released in January 2006 and that the federal requirements amount to an unfunded mandate.

Next, Mike Hayden, Secretary of Wildlife and Parks, reviewed the status of KOALS (Attachment 11). He commented that before KOALS, the agency had no automated licensing system. He indicated that the new automated system will be fully operational by December 31, 2005. He stated although the system itself has only minimal direct cost to KDWP, a revised indirect cost estimate of employee time over two fiscal years will total about \$143,000. He said the \$1.3 million cost of the system itself is being paid by users of the system in fees that are collected by the vendor, Central Bank. He said the agency is negotiating \$51,000 in damages for the vendor's failure to deliver a functional system on schedule. He noted that Central Bank's counter-offer was \$30,000 in credit toward future enhancements to the system. He said the agency will insist on cash compensation for the \$21,000 balance (Attachment 12). Answering questions, Secretary Hayden said all vendor outlets are functional except three that are closed for the season. He noted that the agency received \$1.0 million in license fees for one week, whereas under the old system payments would not be received for weeks or months. He explained that the \$30,000 credit could be used to expand the system, such as adding cabin reservations online. Karen Beard, Project Manager, replied to a question that when the contract expires in five years, the agency will own the hardware but that the software remains the property of the vendor.

David Larson, Director of Computer Services, Kansas Legislature, discussed the status of legislative laptops, saying that the Legislative Coordinating Council (LCC) had authorized them, that 70 percent of legislators have responded to a survey indicating a desire to have one, and that traditional laptops (the Dell Latitude D610) rather than tablets, will be deployed at the beginning of the 2006 Legislature. Mr. Larson responded to questions, stating that he had no instruction regarding the electronic committees, that legislative laptops could not be used in election campaigns, and that the laptops would have the Microsoft Office Professional Suite (but excluding Outlook which is not compatible with Novell GroupWise). When some members expressed frustration at not having Outlook available, Mr. Heiman explained that legislative IT architecture is developing XML Alpha, which will be available June 30, 2006, after which time Outlook can be deployed.

The JCIT minutes for September 21-22, 2005, were approved. (Motion by Representative Lane; seconded by Senator Schmidt.)

Members attended a dinner hosted by the National Information Consortium from 6:00-8:00 p.m. at the Chez Yasu Restaurant, 2701 SW 17th Street in Topeka. No formal business was conducted at the dinner.

Thursday, November 17, 2005 Morning Session

Jeff Frasier, President, NIC, explained that Kansas established early leadership in electronic government through a partnership with the Information Network of Kansas. He introduced Brad Bradley, Executive Vice-President of NIC, who reviewed the early years of e-government in Kansas. He recalled that, as an attorney practicing in Wichita, he became frustrated in trying to obtain Session Laws, prompting him and two colleagues to partner with Charles Warren of Kansas, Inc., to explore communication possibilities with Kansas government. This initiative expanded to include many state agencies and led to legislation creating the Information Network of Kansas (INK). A contract was concluded with the Kansas Information Consortium to manage the network, a service which grew to become the official Kansas e-government portal. He said the e-government vision has expanded to 18 states under the auspices of NIC, with two other states using the NIC concept.

Chris Neff, Director of Integrated Marketing for NIC, recounted an array of portal services developed in Kansas that have been deployed by other states (Attachment 13). As an example, he cited the Kansas Highway Patrol crash logs, which were put online in August 2004. The Kansas Highway Patrol receives 65,000 requests each month. By making the information available online, the service has eliminated 85 percent of the telephone call volume. He cited how other services (the Nebraska Justice System, Indiana's online income tax filing, Tennessee's child-care provider registration) reduce costs and improve service delivery to citizens. He commented on new features and services, such as identity verification for vital records, integration of state/local/federal information, and collaboration between state and business interests. Answering questions, Mr. Frasier said 50 percent of what NIC provides is free to the public.

Tracy Smith, General Manager, Kansas.Gov, reviewed the mission, vision, and services provided through the partnership with INK (Attachment 14). In noting the mission of delivering services to citizens and businesses, she said the state offers efficient online access to government. She said Kansas.Gov offers 250 interactive services, has more than 780,000 web pages available, processed more than 7.6 million fee transactions in 2004, and supplies 90 percent of its information and services free of charge.

Answering a question, she said sometimes an agency will ask for help in developing a service, and sometimes Kansas.Gov will offer a new service to an agency. Mr. Frasier noted that whatever one state develops, NIC offers to other states without charge. Mr. Bradley, replying to a question about cost savings, said it is sometimes difficult to identify savings that reduce costs, but savings are often identified as increased efficiency that obviates the need to increase the budget or add staff as the workload increases.

Next, Mary Torrence, Revisor of Statutes Office, reviewed a 1981 Attorney General's opinion (81-83) dealing with the issue of legislative oversight authority of executive-branch agencies and prior

approval of projects (Attachment 15). She said the opinion clearly states that case law regarding separation of powers makes the requirement of prior approval a violation of the separation-of-powers principle. However, she said the opinion allows the Legislature to exert control over executive agency operations by legislative restrictions or by appropriation limitations. Responding to a question, she said the opinion also would apply to the judicial branch.

A question arose regarding the state capitol, which houses more than one branch of government, but shares IT infrastructure. Mr. Heiman replied that a statute addressing capitol restoration sets forth certain authority to the State Architect, considers the Legislature owner of the building, appoints the LCC for oversight, and cedes certain decision-making authority to the Speaker of the House and the Senate President. He also noted that some IT projects come under the authority of the Information Technology Executive Council, which includes all three branches of government. In answer to a question about contingency funding of a project, Julian Efird, Legislative Research Department, cited an example of the Kansas Department of Human Resources (now Kansas Department of Labor), when computer-replacement project funding was to be released by the State Finance Council contingent upon approval by the JCIT. Concerned about the tendency of agencies to separate projects into smaller units to escape reporting requirements, Representative McLeland requested staff to develop statutory language to clarify reporting requirements. Ms. Moore concurred on the importance of clearly defining a project.

Mr. Efird reviewed the statutes that establish legislative oversight requirements for IT projects (Attachment 16). He noted that parts of the 1998 legislation, SB 5, became KSA 75-7210 and KSA 75-7211. He said the statutes have remained unchanged except for an adjustment in reporting dates.

Next, Don Heiman outlined the definition of a project (Attachment 17) and recommended changes in the statutory language and JCIT policies (Attachment 18). He said the definition of a project is clear: when hardware is replaced, when wiring is replaced, when software is updated, when bundled total annual purchases exceed the threshold, it is a project. However, he said what is not clear is the term "cumulative cost," which does not necessarily include user fees. He suggested added wording, ". . . to include user fees approved by a state agency or state board." Answering questions, he said a grant source or endowment source of funds going to an IT project should be included in the project if the funds come under state control.

Mr. Heiman further commented on KSA 75-7210 and KSA 75-7211. He advised that the Committee can rely on the CITO to insure that agencies receive project approval before contracting with a vendor and can employ the House Appropriations and Senate Ways and Means Committees for funding leverage to assure agency compliance with the statutes. He commented on recommended changes in wording for the statutes and policies. He recommended changing the reporting date from October 1 to November 1 would mesh agency reporting requirements with budget deadlines. He suggested that the statutory focus should be on the JCIT, not the Legislative CITO. He observed that any CITO decision about projects should be preceded by a joint review by the three CITOs. He stated that the JCIT should always review projects that are behind schedule or have cost overruns, noting that the JCIT should plan to meet periodically during a legislative session. He recommended that any project deviation of 30 percent or more should include independent third party review.

Ms. Moore commented that all three CITO's agree on the proposed changes, which, she said, would assist the CITO's in assuring agency compliance. *A motion was adopted to recommend the changes proposed in Attachment 18. (Motion by Representative Morrison; seconded by Representative McLeland.)*

The Committee requested the Chairperson ask for an opinion by the Attorney General as to whether the doctrine of separation of powers has been altered in Kansas following the Kansas Supreme Court decision to assume authority to direct funding for Kansas public schools. It was agreed that the Chairperson will write a letter requesting an opinion on behalf of the JCIT.

The meeting was adjourned at 11:27 a.m. The next meeting is scheduled for December 12 and 13, 2005.

Prepared by Gary Deeter
Edited by Julian Efird

Approved by Committee on:

December 12, 2005
(date)