



NEBRASKA STATE RECORDS BOARD

MINUTES

Meeting of July 27, 2023

Agenda Item 1. CALL TO ORDER, ROLL CALL. The meeting of the Nebraska State Records Board (“NSRB”) was called to order by Chairperson Robert B. Evnen at 9:04 a.m. on July 27, 2023

A Roll Call was taken. The following NSRB members were present:

Robert Evnen, Secretary of State, State Records Administrator and Chairperson
Lt. Governor Joe Kelly, representing the Governor
Phil Olsen, Representing Administrative Services
Mike Hilgers, Attorney General
Mike Foley, Auditor of Public Accounts
John Murante, State Treasurer
David Richards, representing the Libraries
Walter Weir, representing the General Public
Cody Gerlach, representing the Media

Vacant member positions:

Representative the Banking Industry
Representative the Legal Profession
Representative the Insurance Industry

Staff in attendance:

Libby Elder, Executive Director, NSRB
Tracy Marshall, Recording Clerk
Colleen Byelick, Chief Deputy Secretary of State and General Counsel

State Agency Attendees:

Chad Cornelius, Administrative Office of the Courts (“AOC”)
Casey Tribolet, AOC
Sherri Dennis, AOC
Captain Lance Rogers, Nebraska State Patrol (“NSP”)
Kelsey Remmers, NSP
Daniel McEowen, NSP
Julie Kortus, Department of Agriculture

Agenda Item 2. ANNOUNCEMENT OF OPEN MEETINGS ACT. The Chairperson announced that in accordance with the Nebraska Open Meetings Act, reproducible written materials to

be discussed at the open meeting and a copy of the Nebraska Open Meetings Act were located to the left of the Chairperson or to the right of the public seating area.

Agenda Item 3. NOTICE OF MEETING. The Chairperson announced that public notice of the meeting was duly published in the Lincoln Journal Star on March 8, 2023, and on the State’s public meeting calendar website. The public notice and proof of publication relating to the meeting would be made a part of the meeting minutes.

Agenda Item 4. ADOPTION OF AGENDA. The Chairperson brought the NSRB’s attention to the adoption of the agenda. Mr. Murante moved to approve the agenda as presented. Mr. Foley seconded the motion. There was no further discussion.

Voting For:	Evnen	Hilgers	Foley	Olsen	Gerlach
	Murante	Richards	Weir	Kelly	

Voting Against: None

The motion carried.

Agenda Item 5. APPROVAL OF MINUTES. The Chairperson asked for a motion to approve the minutes of the March 30, 2023, meeting. Mr. Foley moved to approve the minutes as presented. Mr. Murante seconded the motion.

Voting For:	Evnen	Hilgers	Foley	Kelly	Weir
	Murante	Richards			

Voting Against: None

Not Voting/Abstain: Gerlach Olsen

The motion carried.

Agenda Item 6. APPROVAL OF FINANCIAL REPORT. Libby Elder, Executive Director for the NSRB provided a summary of the March 30, 2023, Cash Fund Balance Report. Mr. Foley moved to approve the financial report. Mr. Olsen seconded the motion. There was no further discussion.

Voting For:	Evnen	Hilgers	Foley	Olsen	Gerlach
	Murante	Richards	Weir	Kelly	

Voting Against: None

The motion carried.

Agenda Item 7. PUBLIC COMMENT. The Chairperson asked if anyone wished to provide public comment to the NSRB. No member of the public indicated a desire to provide public comment.

Agenda Item 8. OLD BUSINESS – Nebraska State Patrol - Statement of Work. Ms. Elder explained that at the March 30, 2023, meeting, the NSRB reviewed a draft statement of work regarding

work for the NSP. A summary document was prepared to address questions remaining at the end of the prior meeting, and the draft statement of work (“SOW”) was modified.

Ms. Elder explained that the NSP applies for two separate annual grants through the United States Department of Justice (“DOJ”), and they have been using the services of Tyler Nebraska on various projects for NSP and the AOC. NSP’s recently approved federal grants (NARIP and NCHIP), provide for continuing the work being done by Tyler Nebraska. However, NSP and AOC have requested that Tyler Nebraska provide assigned staff, full-time to complete the projects.

NSP and Tyler Nebraska are requesting this SOW address the work to be funded with grant funding, and specifically the funding of 7 positions. Tyler Nebraska would be providing full-time assigned positions to this work, and will charge hourly rates lower than that specified in the NSRB’s contract with Tyler Nebraska (“Master Contract”), with the rates being specified in the SOW.

Ms. Elder explained that the time horizon for this work is the duration of NSP’s 2022 and 2023 DOJ grant funding, with an estimated spend of \$1,600,000. There is an attachment to the SOW, which identifies the projects to be completed, and the SOW includes contractual remedies.

Ms. Elder explained that both NSP grants are subject to 2 CFR Part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. 2 CFR §200.317 provides, “When procuring property and services under a Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds...” Neb. Rev. Stat. §73-504 provides for competitive bidding by state agencies when a contract for services is “in excess of fifty thousand dollars.” However, Neb. Rev. Stat. §73-507 provides limited exceptions to the competitive bidding requirements. One such exception is for a sole source contract. The Master Contract was entered into by the NSRB following completion of the sole source request process established by the Department of Administrative Services. The NSRB complied with the state procurement policies and procedures in entering into the Master Contract. The work for the NSP and AOC fits under the Master Contract, and the NSP further sought approval from the DOJ to use the Master Contract.

Ms. Elder also explained the impact of this work as it relates to criminal history information and public safety. The NSP, AOC and Tyler Nebraska have worked to bring the SOW into better alignment with the Master Contract and to answer the questions presented. Based upon all of this, the NSRB’s approval of the SOW was requested.

Mr. Hilgers asked if the NSRB is a party to the agreement, and whether the SOW could be signed without NSRB approval. Ms. Elder stated that the NSRB is a party to the SOW, but that the SOW includes language which indicates the NSRB is not responsible for grant compliance.

Mr. Foley stated that he would recuse himself from this matter because he may need to audit it.

Mr. Weir asked what will be used to develop the software and who will own it. Mr. Sanders with Tyler Technologies, Inc. responded that the work would be subject to the state’s Master Contract, and that the state will own the data. There was some discussion of Entellitrak and Cloud hosting.

Mr. Hilgers moved to approve the NSP SOW. The Chairperson seconded the motion.

Lt. Governor Kelly indicated that there are some unanswered questions regarding Entellitrak.

The Chairperson explained that whether Entellitrak is approved or not will be decided later in the meeting. If Entellitrak is approved later in the meeting, it will be an option for this work. If it isn't approved, then Entellitrak won't be an option.

Mr. Hilgers asked whether the SOW was entirely federally funded, with no state taxpayer dollars. Ms. Elder indicated that the SOW is entirely federally funded.

Ms. Byelick stated that Tyler Nebraska has indicated that if use of Entellitrak is approved, it would be an option for agencies to use Entellitrak, it would not be required.

Mr. Weir asked what the current AOC applications are built on. Mr. Cornelius with the AOC explained that most of the AOC's applications are in Grails, and there would be a lot of work involved with making a change, and the AOC is not ready to make a determination regarding Entellitrak.

There was discussion regarding the 7 Tyler Nebraska employees assigned to this project, and the division of work between NSP and AOC projects.

Mr. Murante asked if this will be an ongoing expense to the NSP. Ms. Elder explained that the SOW addresses two years of grant funding, but if they wish to continue this work, the SOW would have to be amended, or a new SOW would need to be signed.

Mr. Hilgers asked if there would be a difference in spending for maintenance as compared to the initial build. Mr. Cornelius explained that the AOC needs a team to maintain and enhance the system, and AOC has been solely dependent on this team for this purpose. It would be drastic to the AOC if the NSRB did not approve this SOW, as the AOC would not have enough time to get another plan in place for maintenance of the system, which integrates with the JUSTICE system.

Mr. Olsen requested clarification regarding whether work is done on the JUSTICE system. Mr. Cornelius explained that some modernization does require changes to be made within JUSTICE, but this work is to systems that integrate with JUSTICE, such as e-filing. Mr. Olsen asked if there is revenue generation, and Mr. Cornelius explained that fees are received for filings and use of these systems.

There was discussion regarding the SOW coming before the NSRB for approval, and NSP's ability to seek a different vendor. There was discussion regarding the term of the SOW, and that the NSP is committed to funding this SOW for the duration of two years of their grant funding.

The Chairperson stated that Tyler Nebraska has been working on the system for years, the SOW has been adjusted to address concerns raised at the last meeting, it is limited in scope, limited in dollars, limited in time, federally funded, and important work for the NSP and AOC.

Voting For:	Evnen	Hilgers	Olsen	Gerlach
	Murante	Richards	Weir	Kelly
Voting Against:	None			
Not Voting/Abstain:	Foley			

Agenda Item 9. TECHNICAL INFRASTRUCTURE UPGRADES

Agenda Item 9.a. Review Progress Reports Ms. Elder stated that Grails and Drupal progress reports are included in the NSRB materials. Additional progress has been made since these reports were prepared. Tyler Nebraska is continuing to make progress on the upgrade work.

Agenda Item 9.b. Tyler Technologies, Inc. presentation – Entellitrak & Engagement Builder

Winn McInnis, Senior Vice President with State Enterprises expressed how important Tyler's relationship is with the State of Nebraska and the NSRB. Nebraska is one of their first contracts, and they take that very seriously. Mr. McInnis recognized mistakes have been made over the last 18 months and they are utilizing all their opportunities and benefits to rebuild trust and regain alignment with the NSRB. Mr. McInnis stated that they have new tools and technology that they would like to bring to Nebraska. Mr. McInnis introduced Jeff Marsh, Senior Director of Technology, Brian Combs, President of Platform Solutions Division, and Mike Cerniglia, Senior Vice President of Platform Technology.

Bob Sanders introduced Tanner Hughes, the new General Manager for Tyler Nebraska, then proceeded to discuss progress made with Drupal, Grails, and Tyler Nebraska's operating system. Mr. Sanders discussed the impact of continuing the current path with upgrades or considering options for new technology to reduce the workload, including use of low-code, no-code platforms, which would allow for faster development time and the addition of new features.

Brian Combs explained that Michael Cerniglia was the original architect of the Entellitrak platform, and that use of these low-code platforms allows for development work to be completed much faster. The Entellitrak platform was built for the public sector with a case management framework and is used in all three levels of government. This technology is proven, the roadmap is influenced by government agencies, it is agile as you can bring in features that make sense for you, it is scalable and FedRamp certified, and working on authority to operate in the AWS government cloud.

Mr. Cerniglia stated that the platform was developed out of the need to reduce development time and provide open-source software with support. Tyler Technologies, Inc. has a lot of experts that can build on the platform but doesn't have to be used to build on this platform. Tyler will provide training and certification. In addition, Tyler provides quarterly releases to bring innovation into the government sector. However, Tyler has a long-term supported release, so customers can stay on the version with all security updates being current.

Mr. Hilgers left at 10:11 returned 10:14

Mr. Weir stated that the low-code, no-code model is sometimes referred to the data first model, and asked if Tyler Nebraska expects to spend time working closely with the agencies to give them what they want. Mr. Combs indicated that Tyler is moving to a more a user-centered model.

Mr. Foley asked clarification on building an application using Entellitrak, if there are two paths, they can hire Tyler Nebraska to write it, or if they have the skills, they can buy a license and write it. Mr. Combs stated that is correct. Mr. Cerniglia stated that Entellitrak involves metadata, and it reads that metadata and generates the forms it needs.

There was discussion regarding deployment. Tyler prefers deployment in their cloud, but applications can also be deployed where the customer needs it to be deployed. Tyler has some tooling coming out that will allow customers to use their own preferred layout and styling.

Break at 10:20 returned 10:33.

Mr. Hughes gave a demonstration of a quarterly reporting system built for the Department of Agriculture using Entellitrak. The system allows for submission of commodity information and payment of fees, distribution of emails, in addition to retrieval, exporting, and formatting of information from the system by Department of Agriculture staff.

Mr. Hughes explained it took 1 week to build the system in the Entellitrak platform, but it would have taken 6 weeks to complete the upgrade in Grails. Tyler Nebraska gathered additional feature requests from the Department of Agriculture and determined it was possible to provide those enhancements with approximately 3 weeks of work, whereas building those features in Grails would have taken about 4 months.

Mr. Hughes stated that Tyler Nebraska began using AppEngine in Nebraska in 2017. AppEngine is a low code, no-code platform, and there are currently 131 services in AppEngine. Engagement Builder is a replacement of AppEngine, and it provides all features of AppEngine, but more. Engagement Builder is made to be intuitive and allow users to make changes on their own.

The Grails applications will be moved into the future, using new platforms, at no cost. There is a huge platform services team that can be used to help build these out, which will reduce demand and allow for moving forward in an agile state, focused on mission delivery.

Mr. Sanders summarized that Tyler Nebraska is requesting authority to use these platforms, but agencies will not be required to use them, it will be their choice. The platform will be provided at no cost to the agencies and no cost to the NSRB. Additionally, Tyler Nebraska is requesting to use a subcontractor to assist with website development, and to host partner websites in the Cloud.

Tyler Nebraska will engage with the 12 agencies with Grail's applications to find the best fit for them, Grail's upgrade, Entellitrak, or Engagement Builder. They will present a report and plan to the NSRB at the next meeting.

Mr. Weir asked if Excel is the data source. Mr. Sanders indicated it is all in the platform itself, but you could export to Excel.

Julie Kortus, IT Supervisor with the Department of Agriculture, shared her thoughts on the proof-of-concept work for the Department of Agriculture using the Entellitrak platform. Once Agriculture had approval to move forward with the proof-of-concept, Tyler Nebraska provided the first demonstration within a week. Testing was completed July 19th, which was about 1 month from the initial demonstration. Entellitrak has features that were not available to the Department of Agriculture before, including reminder emails and prevention of duplicate reporting. Entellitrak has met and exceeded the Department of Agriculture's expectations, and they would like to move all commodity reporting to Entellitrak, along with some solutions built in AppEngine.

Agenda Item 10. NEW BUSINESS

Agenda Item 10.a. Sixth Amendment to Master Contract – Cloud Services

The Chairperson stated this agenda item is an amendment to the Master Contract to add Entellitrak and Engagement Builder as Electronic Services.

Ms. Elder stated that the draft amendment provided in the NSRB materials modifies the definition of an Electronic Service to allow for cloud-based hosting and modifies the Electronic Services – Addendum E to include Entellitrak and Engagement Builder. Cloud-based hosting will require OCIO approval through the Cloud Review Board to ensure the OCIO is comfortable with the data being stored in the Cloud.

Mr. Elder distributed a revised amendment to the NSRB members. The Chairperson explained that there was some concern with moving to a low-code, no-code solution, because the NSRB would not own the code for the platforms listed on Addendum E, as the NSRB currently does for applications built on Grails. In working through this matter, Tyler Nebraska has agreed to extend the time in which they would continue to provide services during a transition from 18 months to 30 months. The adoption of this revised amendment would add Engagement Builder, Entellitrak, and would provide for an extension from 12-18 months for operation during transition, which will now be 12-30 months.

Mr. Hilgers moved to adopt the Sixth Amendment distributed to the NSRB, which contains both modifications, the addition of Engagement Builder and Entellitrak and up to 30 months for transition, which was seconded by Mr. Weir.

Mr. Weir asked if limitations on hosting the United States apply. Ms. Elder stated that NITC standards are incorporated into the Master Contract and apply to these services.

Mr. Hilgers stated that he supports low-code, and from a risk mitigation standpoint, the fact that the amendment now provides additional time to transition to a new vendor down the road.

There was discussion and clarification regarding the language in the recitals of the amendment.

Voting For:	Evnen	Hilgers	Foley	Olsen	Gerlach
	Murante	Richards	Weir	Kelly	

Voting Against: None

The motion carried.

Agenda Item 10.b. Waiver of Master Contract Insurance Requirements for Nebraska Interactive, LLC, dba Tyler Nebraska’s proposed subcontractor – Dogwood Media

Ms. Elder stated that Part I. Section F. of the Master Contract requires subcontractors to have the same insurance as is required of Tyler Nebraska.

Tyler prepared a request for waiver of the requirement that their subcontractor have the same insurance as Tyler Nebraska. Tyler Nebraska would like to use Dogwood Media Solutions (“Dogwood”) to design and build partner websites. Tyler Nebraska would establish the design and

build specifications to ensure the websites meet the standards of other Tyler Nebraska-built websites. At the conclusion of the build process, Dogwood would transfer the websites to Tyler Nebraska who will launch, host, and maintain the websites going forward. Dogwood will not have access to Tyler’s production environment; and will not have access to payment information or to any the State of Nebraska’s sensitive information or data.

Ms. Elder indicated that the request is for the NSRB to authorize the Chair to sign a letter of agreement on behalf of the NSRB, authorizing Dogwood to work as a subcontractor with their current insurance provided that the NSRB is relying on Tyler Nebraska’s representation in this written request.

Lt. Governor Kelley moved to approve the Waiver of Master Contract Insurance Requirements, seconded by Mr. Richards.

Voting For:	Evrnen Murante	Hilgers Richards	Foley Weir	Olsen Kelly	Gerlach
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Voting Against: None

The motion carried.

Agenda Item 10.c. Tyler Technologies, Inc. NASPO Contract

Ms. Elder stated that although this is listed as an action item, it will be an information item. The Department of Administrative Services (“DAS”) signed a participating addendum to a NASPO contract with Tyler Technologies, Inc. (“NASPO Contract”). The NASPO Contract provides the ability for state agencies to purchase the same types of technology services like development of applications and websites, in addition to the ability to purchase certain information technology products.

It appears that when a purchase order or other agreement is signed with a partner agency pursuant to the NASPO Contract, that the partner agency is paying for the work using hourly rates in the NASPO Contract, and the work is being completed by Tyler Nebraska, the local affiliate of Tyler Technologies, Inc.

The significant overlap among the services available through the NASPO Contract and the Master Contract raised potential concern. Tyler Nebraska agreed to pause work under the NASPO Contract so the NSRB could review it. Some state agencies did execute statements of work pursuant to the NASPO contract prior to the pause. Ms. Elder stated that the concern is related to the NSRB’s responsibility to oversee the work of Tyler Nebraska and Tyler Nebraska’s responsibility to grow the portal. There was no further discussion.

Agenda Item 11. REPORT FROM NSRB GRANT REVIEW SUBCOMMITTEE

Ms. Elder stated that the Grant Review Subcommittee met most recently on May 26th at 2:00 PM. The subcommittee consists of Auditor Foley (Subcommittee Chair), Walter Weir, Jason Jackson, and David Richards.

The subcommittee presented and discussed two objectives –

1. Providing grants for state agency projects that could be completed by the Office of the Chief Information Officer (“OCIO”); and
2. Proceeding with a Request for Information (“RFI”) to gather information on qualified contractors who could perform work on state agency projects, which would be funded by NSRB grants.

Mr. Foley stated that the OCIO can take on the work of a couple applications. The OCIO has indicated that he does not need a Memorandum of Understanding, but that the NSRB can hire his office to do the work.

There was discussion of the use of grant funds from the NSRB to fund projects completed by the OCIO. There was no action taken, and no further discussion.

Agenda Item 12. EXECUTIVE DIRECTOR’S REPORT

Agenda item 12.a. Review of Template Agreements: Ms. Elder provided a list of agreements signed pursuant to NSRB authority, including Electronic Government Service Level Agreements, PayPort Addendums, a Citizen Payment Processing Addendum, and two Termination Agreements.

Agenda Item 12.b. Review of Project Status Reports: Ms. Elder presented information related to the status of various active projects based upon feedback from local and state government partners, including the AOC.

Agenda Item 12.c. Ernst & Young LLP Audit for Nebraska Interactive – Years ended December 31, 2022, and 2021.

Ms. Elder stated that the audit had been referred to the Finances Review Subcommittee, and the NSRB can anticipate an agenda item for the next NSRB meeting to accept the audit. Auditor Foley stated that he prepared a chart of Tyler Nebraska’s revenue based upon information in the audit.

Mr. Foley also stated the importance of moving forward with a Request for Information to determine who has the ability to perform the type of work that Tyler Nebraska provides for the State of Nebraska.

Agenda Item 13. NEBRASKA INTERACTIVE REPORTS

Agenda Item 13.b. was presented prior to Agenda Item 13.a.

Agenda Item 13.b. Project Priority Report

Jay Sloan provided a summary of the Project Priority Report, including work completed updating websites for newly elected officials, several local payment implementations, and work for the AOC and the Department of Motor Vehicles.

Mr. Foley moved to accept the Project Priority Report, seconded by Mr. Richards.

Voting For:	Evnén Murante	Hilgers Richards	Foley Weir	Olsen Kelly	Gerlach
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Voting Against: None

The motion carried.

Agenda Item 13.a. Review April 20, 2023, Network Outage

Mr. Sanders addressed the network outage on April 20, 2023, and stated that there is a technical aspect and human aspect. Jeff Marsh, Senior Director of Technology for the Infrastructure and Hosting Team addressed the technical aspect of the outage. Mr. Marsh shared that Tyler has been working to automate the failover processes. Regarding AT&T, the internet circuit is two cables with the same point of presence. A boring unit took both circuits out. AT&T would be delivering a diverse point of presence circuit, which should be up and running soon.

Mr. Sanders shared that the outage was about 3 hours, and that the duration had more to do with a delay in decision making, rather than a technical issue. Tyler Nebraska is adjusting to have the failover occur more automatically in the future.

Mr. Weir asked if Tyler Nebraska is running to both datacenters simultaneously. Mr. Sanders indicated they are running to two datacenters simultaneously, with one being primary.

Mr. Hilgers stated that 2 hours to make a decision to failover is a lot of hesitancy and asked what happened in those 2 hours. Mr. Sanders stated he went minute by minute through the day, but the team had not done a failover of this environment in the middle of the day. There was concern about loss of data. Mr. Sanders shared that Mr. Toner had recommended that Tyler Nebraska have a written policy regarding when to fail over.

The Chairperson stated that the contract provides for a penalty of \$2,000 per hour for each hour over 2 hours. If in the judgement of the NSRB, this is the fault of Tyler Nebraska, the NSRB has the authority to impose a penalty of \$2,000. The Chairperson stated that the failover should have been completed within the two hours, and Tyler Nebraska is working on its response when these events occur.

Mr. Foley moved to assess a \$2000 penalty, seconded by Mr. Richards.

Voting For:	Evnen	Hilgers	Foley	Olsen	Gerlach
	Murante	Richards	Weir	Kelly	

Voting Against: None

The motion carried.

Agenda Item 13.c. General Manager's Report

Mr. Sanders mentioned important work completed by Tyler Nebraska, including updating websites at no cost for incoming elected officials. Mr. Sanders also highlighted the DMV's online services and Tyler Nebraska's work to help them identify and prevent fraud.

Mr. Sanders stated that Tyler still owes the NSRB a Business Plan, and based upon action today, they will be better able to revise and present the Business Plan.

Agenda Item 14. DATE FOR NEXT MEETING. The Chairperson announced the next regular meeting of the NSRB is expected to be held in September or October at the 12th and N Street location.

The Chairperson acknowledged Tyler’s presence at the meeting and thanked them for taking the time to attend, in addition to the representatives of the AOC and the Department of Agriculture.

Agenda Item 15. ADJOURNMENT.

Mr. Murante made a motion to adjourn, which was seconded by Mr. Hilgers.

The Chairperson requested all in favor to say aye.

The motion carried.

The meeting adjourned at 11:46 AM.



Robert B. Evnen
Secretary of State
State Records Administrator
Chairperson, State Records Board

11/2/2023

Date