



NEBRASKA STATE RECORDS BOARD

MINUTES

Meeting of March 30, 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 9:03 a.m. on March 30, 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
Jason Jackson, Director of Administrative Services
Josh Shasserre, representing the Attorney General
Mike Foley, Auditor of Public Accounts
Jason Walters, representing the State Treasurer
David Richards, representing the Libraries
Walter Weir, representing the General Public

Absent:

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

Other Attendees

Casey Tribolet, Administrative Office of the Courts (“AOC”)
Kelsey Remmers, Nebraska State Patrol (“NSP”)
Daniel McEowen, NSP

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. Foley moved to approve the agenda as presented. Mr. Jackson seconded the motion. There was no further discussion.

Voting For:	Evnen	Shasserre	Foley	Jackson
	Walters	Richards	Weir	Kelly

Voting Against: None

Absent: Gerlach

The motion carried.

Agenda Item 5. APPROVAL OF MINUTES. The Chairperson asked for a motion to approve the minutes of the December 13, 2022, meeting. Mr. Foley moved to approve the minutes as presented. Mr. Weir seconded the motion. There was discussion regarding Mr. Weir’s request at the December meeting to see a report from Nebraska Interactive, LLC dba Tyler Nebraska (“Tyler Nebraska”) regarding future management of upgrades, and that Mr. Weir’s had not yet received the report. There was no further discussion.

Voting For:	Evnen	Shasserre	Foley	Jackson
	Walters	Richards	Weir	Kelly

Voting Against: None

Absent: Gerlach

The motion carried.

Agenda Item 6. APPROVAL OF FINANCIAL REPORT. Libby Elder, Executive Director for the NSRB provided a summary of the December 30, 2022, Cash Fund Balance Report. Mr. Jackson moved to approve the financial report. Mr. Richards seconded the motion. There was no further discussion.

Voting For:	Evnen	Shasserre	Foley	Jackson
	Walters	Richards	Weir	Kelly

Voting Against: None

Absent: Gerlach

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. EXECUTIVE DIRECTOR’S REPORT.

Agenda Item 8.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, and a Termination Agreement.

Agenda Item 8.b. Review of Project Status Report: Ms. Elder presented information related to the status of various active projects based upon feedback from local government partners, including Antelope County and the AOC.

Agenda Item 8.c. Update on NSRB Grant Program: Ms. Elder stated that the NSRB has statutory authority to provide grants to state and local agencies for development of programs and technology to improve electronic access to public records or electronic information. The program was suspended in September of 2016 due to state revenue shortfalls. At the December 13, 2022, NSRB meeting, a resolution to resume the NSRB grant program was approved.

Ms. Elder stated that a subcommittee has been established. Draft materials have been assembled, including grant guidelines, a grant application, and a draft grant agreement. These materials, when finalized by the subcommittee, would be brought before the NSRB for review and approval. There was discussion regarding the types of prior grant projects.

Agenda Item 9. NEW BUSINESS

Agenda Item 9.a. Approve Department of Motor Vehicles – Revised Addendum 15: Ms. Elder stated that there was a draft summary document and Revised Addendum 15 in the NSRB meeting materials, along with a letter from Director Lahm explaining the request for this revision to Addendum 15.

Ms. Elder stated that Tyler Nebraska began processing renewals of fleet vehicles for the Department of Motor Vehicles pursuant to Addendum 15, after approval at the September 18, 2019, NSRB meeting. Owners of fleet vehicles are those that have between 25 and 2,500 vehicles. This service provides the opportunity for owners with a fleet of vehicles to renew all their vehicles in one group, instead of individually. The Revised Addendum 15 adds credit card as a payment option with 2.49% as the portal fee, which is the standard credit card fee under other template addendums.

Mr. Foley moved to approve the Revised Addendum 15, and Mr. Jackson seconded the motion. There was no further discussion.

Voting For:	Evnen	Shasserre	Foley	Jackson
	Walters	Richards	Weir	Kelly
Voting Against:	None			
Absent:	Gerlach			

The motion carried.

Agenda Item 9.b. Approve Nebraska State Patrol – Statement of Work: Ms. Elder stated that there was a draft statement of work (“SOW”) with the NSP in the NSRB materials, and that there were some representatives of the NSP to present to provide additional information, if needed.

The NSP receives annual grant funding through the Department of Justice, and they have been using the services of Tyler Nebraska on various projects for NSP and the AOC under two current statements of work. One is for collection of felony conviction data to be delivered to the National Instant Criminal Background Check System (“NICS”), signed in February of 2020. The other is for collection of Misdemeanor Crimes of Domestic Violence data, also for delivery to NICS, which was signed in July of 2019.

Ms. Elder explained that NSP’s recent federal grants from the Department of Justice include the NICS Act Record Improvement Program (“NARIP”) grant and the National Criminal History Improvement Program (“NCHIP”) grant. These grants provide for continuing the work being done by Tyler Nebraska using dedicated personnel to ensure expedient completion of work under the grant.

These 2 grants provide for funding 7 full-time positions at Tyler Nebraska (5 full-time developers, 1 full-time project manager and 1 full-time quality analyst). The project manager, quality analyst, and 2 of the 5 developers work on projects under both grants, and 3 developers are dedicated solely to NCHIP grant work.

The SOW is being proposed to allow funding these 7 full-time positions at a lower hourly rate, instead of performing work at the time and materials rates in the NSRB Master Contract. There is also an attachment with some terms and conditions applicable to the NSP’s federal grant funding.

There was discussion regarding the Nebraska JUSTICE system and whether Tyler Nebraska created the JUSTICE system. Tyler Nebraska did not create the JUSTICE system but does work that integrates with the JUSTICE system.

The SOW addresses how data in the JUSTICE system passes through to the NSP for federal reporting, and Tyler Nebraska will not be working directly in the JUSTICE system itself, but will be improving the interfaces that connect to the JUSTICE system, in pursuit of the grant objectives.

There was discussion regarding the project being funded entirely with federal dollars. Mr. Foley asked whether there were any federal bidding requirements. Ms. Remmers indicated that the federal grant does have some requirements; however, they would like to use the statewide contract in place with Tyler Nebraska, as Tyler Nebraska built and maintains the applications that integrate with the JUSTICE system. Upon further inquiry from Mr. Foley, Ms. Remmers indicated that she could obtain additional information from the NSP legal department.

Mr. Foley indicated that the SOW provides for funding in the amount of \$900,000 to Tyler Nebraska with a 5 percent escalator and asked how many years the project will continue. Ms. Remmers indicated that it will be a multi-year project; however, the duration will depend on how quickly progress is made.

Mr. Foley indicated that he was not comfortable with the project, as there are unanswered questions, and he would not be voting for it.

Mr. Sloan stated that the NSP reapplies for grant funding each year. Ms. Remmers indicated that the NSP can apply annually or every 2 years. The NSP prefers to apply for such grant funding annually.

Ms. Elder stated that Section 4.4 of the Statement of Work provides term language that ties the term to the duration of the NSP grant funding, but the term cannot exceed the duration of the State's Master Contract with Tyler Nebraska.

Chairperson stated that to continue this project, the NSP will have to reapply to its federal grantor. Ms. Remmers indicated that is correct.

Mr. Foley stated that this project is too open ended to write checks to Tyler Nebraska for \$900,000 a year, with a five percent escalator, for an unlimited number of years, and he is not comfortable with it.

There was discussion regarding Attachment A, which is incorporated into the SOW in 4.11.

Ms. Remmers stated that NSP applies for the grants on an annual basis, but it is difficult to put a term on completion of the work. The modernization of the AOC database is complex, and the NSP is dedicated to seeing those projects through to completion.

Mr. Foley stated that if funding does not continue, the projects may stop before work is completed. The Chairperson asked if NSP is doing work that is discrete in each year. Ms. Remmers stated that these grants cover a variety of things at the NSP, and this work is only one piece of the use of grant funding, and NSP has been applying for NCHIP since pre-2010 and NARIP since pre-2012.

There was discussion regarding whether the Auditor has ever made any inquiry of the disposition of these funds by the NSP. Ms. Remmers indicated that the NSP gets audited. The Chairperson asked whether the Auditor has articulated any objections to how the NSP has been spending the money. Ms. Remmers indicated they had not.

Mr. Weir asked technical questions regarding the project and indicated that there does not appear to be enough specificity in the SOW about the work or projects that will be done with the grant funding. Ms. Remmers indicated that some of the specificity comes from what the grants require. NCHIP is about the betterment of criminal history records nationwide. NARIP is about the betterment of firearm background checks nationwide.

Ms. Remmers indicated that the long-term goal is to have an upgraded court database, and the NSP is reviewing how to fund this outside of federal grant funding. There are many good things that come from having updated court records.

Mr. Weir asked what other court modernization projects have cost, and how long they have taken. The information was not known.

The Chairperson indicated that under the SOW, the NSP is solely responsible for overseeing the work and the terms of the grant.

Mr. Foley stated that in his 16 years on the NSRB, he has never seen a SOW of this magnitude. He asked if the SOW is not approved, what would be the effect of waiting until the next NSRB meeting so that they could dig deeper into it. Ms. Remmers stated that it would potentially delay progress on the

grant projects.

Mr. Hoffman indicated that NSP is about \$400,000 behind in paying Tyler Nebraska because there is no mechanism for payment. Mr. Sloan added that there are the 2 existing SOWs, and Tyler Nebraska had been doing work. Mr. Sloan indicated that Tyler Nebraska is 2-3 months behind on getting paid. Until recently, lines were being added to the Master Contract through the SOWs that were previously signed.

Ms. Remmers stated that they were paying under the MCDV SOW, and that is how the partnership with Tyler Nebraska started. The grants are very heavily suited to assisting the AOC. So, NSP reached out to AOC to say there are funds to help AOC. AOC indicated that they needed a team at Tyler Nebraska to move forward. NSP did not understand the intricacies of the Master Contract. NSP did not understand that when they began paying for a team at Tyler Nebraska that they were not in line with the Master Contract.

Upon inquiry from the Chairperson, Ms. Elder indicated that Tyler Nebraska referred on a few occasions to having received a grant. More recently, they made Ms. Elder aware of the arrangement in a meeting with NSP at Tyler Nebraska's offices, where it became clear that Tyler Nebraska is a contractor of NSP, not a grant recipient. It was discussed that if they want to use Tyler Nebraska for this work, and pay for entire positions, which is different than the Master Contract, a Statement of Work could be prepared for review by the NSRB. Ms. Elder explained that the rates in the draft SOW are lower than those in the Master Contract, and the Master Contract indicates that time and materials rates are "not to exceed" rates.

The Chairperson asked who prepared the SOW. Ms. Elder indicated that the initial draft was prepared by Tyler Nebraska, and that she worked with NSP to get requirements relating to NSP's grant funding to add to the SOW.

Ms. Remmers indicated that the Master Contract is set up as time and materials, but this project is not time and materials; however, since the Master Contract is in place, NSP Purchasing has indicated that the Master Contract should be used.

Mr. Foley asked what rates have been paid, and Ms. Remmers indicated they have been paying the lower rates.

Mr. Jackson stated that the main reason that the NSRB is reviewing this matter is that rather than doing a Request for Proposal, the NSP wants to use the NSRB Master Contract. Ms. Remmers indicated that Tyler Nebraska has been doing work for NSP and the AOC for a number of years, and using the Master Contract meets the objectives of the parties.

Ms. Elder stated that if NSP wants to use the Master Contract, they need to have a SOW in place and this draft SOW has differences from the template SOW, which requires NSRB review and approval.

Mr. Kelly made the motion to approve the Nebraska State Patrol – Statement of Work. Mr. Richards seconded the motion.

Mr. Jackson stated that he believes NSP should issue a Request for Proposal. Mr. Foley indicated that based on what he had heard, his team will take a look at this.

Mr. Foley made a motion to table the Statement of Work to the next meeting. The motion was seconded by Mr. Shasserre.

Voting For:	Evnen	Shasserre	Foley	Jackson
	Walters	Richards	Weir	Kelly

Voting Against: None

Absent: Gerlach

The motion carried.

There was discussion regarding what information needs to be provided at the next meeting to allow the members to be fully informed on this matter. The following items were mentioned: (1) time horizon; (2) total anticipated spend; (3) totality of the project; (4) specificity of the work, including that which is applicable to the AOC and to the NSP; (5) contractual remedies available; (6) procurement requirements under the grant; (7) rationale for not competitively bidding; and (8) understanding of the impact of this work as it relates to criminal history information and public safety.

The Chairperson requested that the NSP provide this information in advance and give the NSRB at least 30 days to review this information prior to the NSRB meeting.

Agenda Item 10. TECHNICAL INFRASTRUCTURE UPGRADES

Agenda Item 10.a. Review Progress Report

Ms. Elder reported on the Grails and Drupal progress as shown on the progress reports.

Agenda Item 10.b. Authorize Action by Chair Regarding Technical Infrastructure Upgrades (Closed Session). Mr. Jackson made a motion to go into closed session for the limited purpose of discussion of authorizing action by Chairperson regarding Technical Infrastructure Upgrades. The motion for closed session was seconded by Mr. Weir.

Chairperson Evnen restated the motion to go into closed session. The NSRB went into closed session at 10:18 a.m.

Voting For:	Evnen	Shasserre	Foley	Jackson
	Walters	Richards	Weir	Kelly

Voting Against: None

Absent: Gerlach

The motion carried.

At 11:15 a.m., Mr. Jackson moved that the NSRB reconvene in open session having completed discussion of authorizing action by the Chairperson regarding Technical Infrastructure Upgrades. The motion was seconded by Mr. Weir.

Voting For:	Evnen	Shasserre	Foley	Jackson
	Walters	Richards	Weir	Kelly

Voting Against: None

Absent: Gerlach

The motion carried.

Mr. Foley made a motion that the NSRB, working in concert with the Department of Administrative Services, publish a Request for Information (“RFI”) to explore what companies might be interested in doing work with the NSRB in development of electronic government services applications. Mr. Walters seconded the motion.

Voting For:	Evnen	Shasserre	Foley	Jackson
	Walters	Richards	Weir	Kelly

Voting Against: None

Absent: Gerlach

The motion carried.

A break was taken from 11:20 – 11:37 a.m.

Agenda Item 11. NEBRASKA INTERACTIVE REPORTS

Agenda Item 11.a. Nebraska Interactive, LLC, Project Priority Report: Mr. Sloan addressed Mr. Weir’s prior question about management of future maintenance. Tyler Nebraska prepared a report, which has been provided to Ms. Elder.

Mr. Sloan presented the Project Priority Report and provided a summary of several projects in progress. Mr. Foley made a motion to approve the Project Priority Report, seconded by Mr. Jackson.

Voting For:	Evnen	Shasserre	Foley	Jackson
	Walters	Richards	Weir	Kelly

Voting Against: None

Absent: Gerlach

The motion carried.

Agenda Item 11.b. Nebraska Interactive, LLC Business Plan:

Mr. Hoffman presented the Business Plan for 2023. There was discussion of Tyler Nebraska’s expenses and payments made to Tyler Technologies, Inc. Mr. Hoffman indicated that the DMV

modernization project is coming up and will have a significant impact as 97 services touch the DMV applications today. There are revenue restrictions, and Tyler Nebraska would like to increase the cost of driver history records and title liens and registrations to bring the cost up to market value. They are looking at more SaaS model and platform development, instead of custom development to assist them in operating under a self-funded model. Tyler Nebraska has the same number of staff in 2023 as they had in 2022.

The growth strategy is to generate more revenue through use of technology for citizens and business. Tyler Technologies, Inc. has an Engagement Builder tool that allows an agency to put up a simple series of webpages with an appointment scheduler, build their own forms, and it could be done without Tyler Nebraska, if the agency wanted to. They also have an over-the-counter payment tool that could be rolled out to generate revenue. Corporate monitoring is discussed by the National Association of Secretaries of State (NASS), and some states have services that would notify the registered agent or business owner that their company has had filings to alert them to fraudulent filings.

Tyler also has a data certification framework that links common questions and allows for creation of one form for all audits (PCI compliance, IRS requirements, etc.). This would be a cost savings for agencies, as they spent 60% of their time on audits.

Tyler Nebraska will offer a SaaS platform service to DHHS to provide all vital records from beginning to end and reduce staffing. Mr. Hoffman indicated that DHHS uses a paper system, as citizens are required to mail in information, etc. Mr. Foley indicated DHHS is happy with their system. Mr. Hoffman indicated he could still talk with them about it.

Mr. Hoffman stated that they are seeing what Tyler Technologies, Inc. has available to offer to State government and he is excited about the future. Tyler Technologies, Inc. is meeting 2 days with each general manager in every state to see how operations work. Tyler is a products company, and Tyler Nebraska is a service company.

The Chairperson moved to approve the Business Plan, a second was not obtained. The Chairperson indicated the NSRB may consider the Business Plan at the next meeting.

Mr. Kelly left the meeting at 11:52

Agenda item 11.c. General Manager's Report:

Mr. Hoffman reported the following:

1. Nebraska Interactive, LLC will now be using the name Tyler Nebraska, but they will answer to any of their names or trade names.
2. On the charts and graphs, there are the number of hours spent on revenue and non-revenue services.
3. There are statistics indicating an increase in attacks on software in supply chains, and cyber security attacks are on the rise. Privacy laws are becoming stricter, and Tyler Nebraska will monitor those changes on an ongoing basis.
4. Tyler Nebraska monitors legislation to see what agencies need as a result of statutory changes.
5. Mr. Hoffman agreed to bring information to the next NSRB meeting on the division between use of credit and debit cards.

6. Tyler Nebraska completed website updates for the incoming elected officials.
7. Tyler Nebraska participated as a sponsor for the Center for Operational Excellence. There were about 300 people present, including many agency directors.

Mr. Sloan reported on attending the Nebraska Bar Association conference. Tyler Nebraska provided technical assistance on use of the JUSTICE System and e-filing.

The Chairperson discussed a letter dated March 1, 2023, sent to the Chairperson from the Nebraska Corn Board and the Nebraska Wheat Board regarding the Quarterly Commodity System. The letter requests the NSRB provide financial support for an application used by the commodity boards, in which they receive over \$6 million through transactions processed.

The letter states that the system may be sunset in 2024. Mr. Hoffman confirmed that Tyler Nebraska may sunset the application in 2024. The Chairperson indicated that the system supports all their operations and they moved from a manual system to an electronic system with Tyler Nebraska.

The letter states that the commodity boards had been told the burden to pay for the upgraded framework is on the commodity boards. Mr. Sloan explained that they were not told they had to pay for the upgrade, but instead that they were given several options.

The Chairperson indicated that Tyler Nebraska needs to provide this upgrade work under the Master Contract at no charge to the partner agencies, and that Tyler Nebraska is nowhere near the timetable originally presented to the NSRB.

Mr. Hoffman discussed his work to grow and expand the portal and indicated that this situation is due to the unique situation of the upgrade. Mr. Hoffman stated that he does not believe that the tone of the letter represents the conversation between Mr. Sloan and the agencies, and Tyler Nebraska did not believe they should intervene in the wording of an agency's letter. Further, as part of the application rationalization process, Tyler Nebraska determines which applications are valuable to the agencies.

Mr. Foley asked when the application will be upgraded. Mr. Hoffman indicated that the Department of Agriculture would get their upgrade when Tyler Nebraska has the funds and availability to provide the upgrade. He further indicated that the success of Tyler Nebraska is the success of the NSRB, and the failure of Tyler Nebraska is the failure of the NSRB. Mr. Hoffman indicated the agencies want more from Tyler Nebraska because they like the services. Tyler Nebraska only has the resources that come in through the portal. Mr. Hoffman stated that you cannot create a business in 1996 and never change prices and not end up in this situation. Tyler Nebraska needs additional resources, regardless of the upgrade.

The Chairperson indicated he would undertake efforts to assure the Department of Agriculture gets the upgrade as they ought to have. Mr. Foley stated the Master Contract has numerous references that say the upgrades are Tyler Nebraska's responsibility. Mr. Hoffman indicated that he does not think that getting legal involved will lead to a solution because there is an emphatic disagreement from Tyler's side. Tyler Nebraska will take responsibility for the upgrades, but it doesn't get them additional staff.

Agenda Item 13. DATE FOR NEXT MEETING. The Chairperson announced the next regular meeting of the NSRB will be in June possibly sooner and is anticipated to be held at the 12th and N Street location.

Agenda Item 14. ADJOURNMENT.

Mr. Foley made a motion to adjourn, which was seconded by Mr. Jackson.

Voting For: Evnen Shasserre Foley Jackson
 Walters Richards Weir

Voting Against: None

Absent: Gerlach

The motion carried.

The meeting adjourned at 1:05 PM.



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

July 27, 2023

Date