

TRANSPARENCY ADVISORY BOARD MEETING

January 19, 2010

Attendance: Senator Wayne Neiderhauser, Representative Ken Sumsion, John Reidhead, John Nixon, Jonathan Ball, Ken Peterson (for Stephen Fletcher), Troy Caserta (for Val Peterson), Randy Merrill, Ken Montague, Scott Smith (via phone)

1. **Welcome:**

John Reidhead called the meeting to order and welcomed everyone to the meeting.

2. **Approval of minutes:**

There was a motion to approve the minutes, they were seconded and passed unanimously.

3. **Update on Website Status:**

a) **Usage statistics.**

Michael Rice reported the statistics for the last eight months. Michael showed a graph of the actual visits. He explained that people are spending more time on the website in the last few months. The bounce rate is at 37% that is the amount of people who come to the website and immediately leave. The average time a person spends on the website is 4 minutes. The amount of time people spend on the website and look at more than one page is an average of 13 minutes. The daily weekday visits to the website is 50-100, on weekends it is lower.

The majority of the people looking at the website from the state of Utah are from the larger cities, with Salt Lake and Midvale having a large amount of hits to the site. Almost all cities have had people looking at the website.

There are about 1/3 of the people who use the website have it bookmarked and use the URL to get to the site. Google accounts for 16% of the referrals and KSL 7.79% referrals. Google had a spike in traffic to the site when the recovery data went on in Sept. KSL has a third of the traffic and it mostly came from the launch of the website as they have had little activity since. That shows the impact of local news and their influence of driving people to this website. The next highest amount of referrals comes from recovery.utah.gov which has a link directly to the transparency site to look at the recovery data. The referrals were high in September when the recovery site pointed to the transparency data.

Michael said that the majority of the people (75%) who use the website simply click and drill down through the screens that they view, 10% look for vendors, and 5% look at categories.

Michael showed a graph of the network (ISP) where the users came to the website from, the majority were from the state of Utah, about 1/3 were from the state's network, probably state employees. The rest were from Quest and Comcast.

b) **Impact on download limit.**

Michael reported on the download feature on the website. There have only been a few downloads in the last couple of months. Since Oct. 14, 2009 there has been 40 times the website has downloaded a file to an Excel format. The average size of the download is 3 thousand records.

Currently the limit to download is at 10,000 records. Michael said there has been 4 times someone has tried to download more than the 10,000 limit in the last 2 months. Only 1% of the users who visit the website actually download a file and .1% of those try to download a file that is larger than the 10,000 limit.

Michael did a load test to see the impact of the download on the website. In the testing they found three main areas that could limit the file size. The hard drive space, processors power, and memory. They narrowed it down and the hard drive space and the processor are not really utilized with the download, the limiting factor is the memory size on the computer. They narrowed down the test to the memory. To download 10,000 records it takes 20 megabytes, to download 100,000 records it takes around 250 megabytes. Utah Interactive uses servers that have 8G of memory on them; the servers are sliced into five

segments each acts like an independent computer. Each of those servers has a gigabyte of memory assigned to them and each of those slices has around 10 websites on them. If the limit is raised to around 100,000 records Michael said that they would have to put the Transparency Website all by itself. They are prepared to do that if the Board wants them to raise the limit of download capacity from 10,000 records to 100,000 records. At the current memory a single 100,000 download file would use 250 megabytes, a quarter of the memory available. If there were 4 or 5 downloads for 100,000 records at the same time it could cause the website to crash.

Ken Peterson asked what the sizes of the files were that were above the 10,000 download file limit.

Michael Rice responded that one was 20,000 records, another was 40,000 records, and two others that were requested on the same day were for 150,000 records.

Jonathan Ball asked how many records were requested from UDOT?

Michael Rice stated that there were 1 million records for UDOT and the next largest request was around 100,000 records.

Michael said for most websites 8G of memory is fine, the issue is that they are creating a file that didn't exist before. The issue is that they are pulling out of the database and putting it in the memory of the computer and serving it to the user. If the file existed this would not be a problem. An option would be to post a version of the file they receive from each entity at a level for a full download if the users want a larger file size.

The usage statistics does not show a lot of people trying to do that.

Jonathan Ball asked John Reidhead if someone asked for a GRAMA request for all the records from an agency like UDOT would they be able to receive it.

John Reidhead said that that they did have a request for all of DTS's records and Finance did provide that information at no charge. This would be the more practical way to provide this information for the few requests that are received.

John Reidhead skipped to an issue that Dr. Merrill with school districts raised. The question was about the compensation information on the website and if it violates the HIPAA law. John had asked Doug Springmeyer who represents the Department of Health to come and address any questions about the compensation and if it violates HIPAA. Paul Tonks from the Attorney General's Office who represents the Division of Finance and the Transparency Board has also been invited to answer questions or concerns.

Randy Merrill explained that the question was from John Larsen, a CPA from the Jordan School District. His understanding was that HIPAA would not allow them to disclose what insurance plan employees are enrolled in unless a court orders it. And if the employee's health insurance is disclosed is it a violation of HIPAA?

John Reidhead stated that for state employees they report to the website a total benefit number per employee, it is not broken out by type of benefit.

Doug Springmeyer said that he spoke to Mr. Larsen by telephone and he could not provide him with the party that had given him the details of the HIPAA concern. Mr. Springmeyer sent an email to the HIPAA task force that he is a part of that is the leading authority on HIPAA issues in the state. The consensus of the task force is that this is not a HIPAA violation. Jordan School District when reporting to the Transparency Board is acting as an employer not a health care provider. They do self insure but, they segregate that function as all private companies do to avoid HIPAA covering their entire operation. The release to the Transparency Board and pursuant to the GRAMA statute that makes gross compensation public is not a HIPAA release, by a HIPAA covered entity. He said HIPAA is a law of limited jurisdiction and you are only covered if you are a doctor, a health care provider, or a health insurance company.

Doug said that Jordan School district is not functioning as an entity covered by HIPAA at the time they make the release to the website. The health insurance plan that their employees participate in is not health insurance data that HIPAA protects.

Paul Tonks concurred with Doug's analysis of the question concerning the insurance issue and the Jordan School District. Paul said the opinion is the same as it was a year ago; GRAMA is straight forward about what is considered public record. In GRAMA gross compensation is a public record.

Jonathan Ball asked if family or marital status is a privacy issue.

Doug Springmeyer stated that it wasn't a HIPAA issue.

Paul Tonks said that GRAMA is specific when it comes to gross compensation.

The meeting now returned to 3. (d) Impact on download limit.

John Reidhead reiterated that the download capacity limit is set at 10,000, and asked if there were any comments or motions on the set limit.

Troy Caserta from Higher Ed. asked Michael Rice if they were prepared for the spike that will occur when Higher Ed. goes on the website, and he wondered if it would overload the system.

Michael Rice responded that there is always a fear of the unknown, it is a valid fear with the adding of the entities, the usage and downloading will go up, overwhelming the system that could cause a crash. They do have a back up environment, but there still could be a problem.

Brenda Lee asked if the Board wanted to have the website on its own server and increase the download capability to 100,000.

Jonathan Ball feels with the information that has been given today on the amount of attempts to download, we should be fine with the 10,000 limit for the time.

John Reidhead asked Michael Rice if the infrastructure would be sufficient with the new entities coming on to the site.

Michael Rice responded that the server would be able to handle a load if it went up 10 times the amount of users. He said they do not have any current plans but that the hardware is available and can be changed quickly if it becomes overwhelming to the existing server.

c) Website inquiries.

Brenda said that there have not been any website inquiries since the last meeting. Troy Caserta did email and ask when the next board meeting would be held.

4. Reports on Progress & Issues from Participating Entity Groups:

Senator Niederhauser reported on the trip he made to Mexico for the State Department. He flew to Mexico the Sunday before Thanksgiving. He met with two Mexican states, Jalisco and Michoacan. The capitol of Jalisco is Guadalajara and the capitol of Michoacan is Morelia. He stayed in Guadalajara and traveled to Morelia for a transparency conference. There were people there from Chile, Colombia, and Brazil.

He spoke to and showed the group the Transparency Website. Mexico has a new law where the people can access anything the Government has. This is similar to a GRAMA law. There is some distrust among the people about corruption in their government and they feel that transparency is the solution to that. He said that each Mexican state has a department called the Institute of Transparency. Chile also has been progressive in the transparency area and has been a model in some of the Latin American countries. Senator Niederhauser said that transparency is happening around the world not just in the United States.

Senator Niederhauser stated that Mexico has Consulates throughout the country, and one of the consulates was in Guadalajara. He said there were hundreds of Mexican citizens waiting outside the consulate to apply for a visa to come to the United States. They see about 1,000 people a day seeking visas. They grant about 60% of those. If they violate any of the conditions of their visa they do not get another one.

Senator Niederhauser stated that in the legislation there was leeway given to the Board to address entities with a budget of 10 million or less. This includes some charter schools, small school districts, and in the future special districts, cities and towns.

Some charter schools are using Quick Books and they are having trouble trying to map over. Senator Niederhauser feels that the Board might want to pick a budget threshold so it won't be a burden to time and resources for some of these smaller entities.

They would be able to download to an Excel spreadsheet and then post those quarterly. This would make it easier for the smaller entities to provide transparency in a link to the website.

John Reidhead commented that Brenda and Darrell have done some outreach with Charter Schools. Finance has a policy on what they would like to do and when we hear from the different entities it will help with Senator Niederhauser's concerns about these smaller entities.

a) **Higher Ed.**

Troy Caserta reported that all of Higher Ed. is in line to go live in May. There may be some trouble with CEU; they are transitioning to become part of USU. With this transition they may not be ready in May. After May they will be a part of USUs books.

Troy asked if CEU should report their year to date information separately or together with USU.

Jonathan Ball stated that for the first quarter of the calendar year they might be able to link a report to the website and meet the statutory regulations in May, then after July they will be a part of USU. The law allows that you can post documents to meet the requirements rather than posting data in dataset.

Troy Caserta said he will talk with them and see where they are, and report back to the Board.

Senator Niederhauser made a motion that CEU would not need to report until July 1, 2010 when they become part of Utah State University.

Jonathan Ball would like to them post their annual report for 2010. Then the data would be available.

Senator Niederhauser amended the motion to have CEU add their annual report for 2010.

The motion was seconded and passed.

Troy Caserta stated that UHEAA, UESP, OCHE will be ready for the May deadline. Troy will get back to the Board with UCAT's progress.

b) **School Districts**

Dr. Randy Merrill stated that the school districts have agreed that the draft policy with the one million dollar threshold is appropriate. The small districts are currently using the USOE finance system. The state's staff has worked directly with the USOE to help them facilitate the reporting.

c) **Charter Schools**

Scott Smith reported that the smallest Charter School has 54 students and the largest has approximately 2,000 students. A charter school is an individual school but also reports as a district. The reporting becomes overwhelming to some charter schools because they do not have the resources for the extra reporting.

He agrees transparency is important. None of the schools disagree with transparency there only concern is their limited amount of resources to comply. He said that even the exempt schools should still have to comply in some way. Maybe there could be a link from the school site to the website showing the schools audit. Every schools audit is a public record. Mr. Smith said that all charter schools are required to submit financial information every month to the state office. He feels that if

the charter schools current information could be linked with ease it would be helpful. Also, he feels that even exemption should not be the elimination of transparency. Without the extra personnel to comply, there needs to still be a way for all schools to be transparent.

Superintendent Merrill stated the question is whether the charter schools have to post their information or whether they don't. If you go to a 5 million dollar limit then the majority of the charter schools do not have to follow the law, and that would be unacceptable to the districts.

Scott Smith said it is not a question of reporting, it is a question of how to report. He feels the 5 million dollar limit is acceptable, but he still feels that the exempt schools districts should comply with the resources they have.

Senator Niederhauser said he is not advocating giving people under the 5 million dollar limit a pass to not post to the website. The senator also wants to know why some of the larger school districts want to post on their own website, rather than what has been establish in the state on the transparency website.

Dr. Randy Merrill said that the draft policy states that entities that want to post their own financial information can do that if it is similar to what is required in the policy. He feels the Wasatch Front Districts would rather post it on their own website. He said his district already has their information posted so if the State agrees with what is posted they would like to use their own website.

Representative Sumsion wants charter schools and small entities to report their financial information. And he would like the Board to require the large entities to use the state's website.

John Reidhead said we have been encouraging all entities to use the state's website. But, the law states that they can use their own.

John Nixon said that he does not feel comfortable with even a one million dollar threshold. He feels that all entities should be transparent including smaller entities.

Scott Smith agrees with that all entities should participate. If the small entities have a burden with the process of posting their information, the Board may need to find a way to help them with the process.

John Nixon asked how many districts or charter schools would be exempt.

John Reidhead stated that there were not any school districts that would be exempt from posting their financial information on the website and there are seven charter schools that fall under the million dollar threshold.

Brenda Lee stated that if the small entities are able to get their information in an Excel file it is an easy link to get it to the website. The one million dollar threshold was for small entities that were not able to get their information even to an Excel file.

Curtis Roberts Director of Administration of the Cache Valley Transit District reported that their operating budget is around 3.5 million dollars.

d) Transit Districts

Ken Montague from Transit Districts reported that they will be ready for the May deadline and they have test files on the website.

5. Update from Finance on Outreach to 2010 Participating Entities.

Paul Tonks the Board's attorney clarified some of the policies for the participating entities. He said that if you are a *State* participating entity (Higher Ed.) the law states that you have to report to the website. If you are a *local* participating entity you have the option of using your own website or the state website.

The non state entities for 2010 are School Districts, Charter Schools, and Transit Districts. For next year 2011 they are Counties, Cities and Towns, and Special Districts.

Brenda Lee said that they are trying to follow the law, and they are willing to help entities with their issues. She said the mapping data for Charter Schools file layout is simple there are five or six fields that are required. Brenda feels that the entities they contact don't research what is being asked and they panic. She stated that they have a limited staff and barely have time to get the entities technically set up to participate. We don't have the time to convince them that that have to do it. Brenda appreciates all the help that the Board members give them.

a) **January 29th deadline.**

Brenda reported that a month ago a letter was sent to all the entities that are to come on board in May 2010, except for Higher Ed. In the letter they were asked to tell Finance by the end of January if they are going to use the State's website or their own.

32 School Districts plan to use the State's website.

9 Districts have yet to respond.

25 Charter Schools plan to use the State's website.

2 Charter Schools are planning to use their own.

43 Charter Schools have yet to respond. They are making contact with them.

b) **Summary of contacts made.**

Troy Caserta gave an update on Higher Ed, and Brenda and Darrell met with UCAT last month. They have also met with the programmers at the State Office of Education who support 25 schools districts and they have a test file from them. They are ready to go. They have met with 23 Charter schools on mapping their data, and they have two more meetings planned. There are a couple of entities that represent multiple charter schools and they are working with them. Brenda said they have been meeting with UTA, and they are doing a great job.

c) **Issues encountered.**

Brenda said there were some charter schools that have third parties that do their payroll for them and they might not be able to report on a fiscal year. There may have to be an exemption for them to let them report on a calendar basis.

Most Charter Schools use Quick Books or Peachtree and she said if they can get the data into Excel there is a simple way to get it into the text file for the website. There is some data they will have to be added to the Excel spread sheet, they do not think it will be too much of a burden.

They are trying to resolve the problem where some entities are planning to dump their data on the website whether or not it is accurate or a duplicate. Ultimately it will be up to these entities to defend what they put on the website.

Brenda Lee stated that in the policy they tried to clarify that if they have subsidiary ledgers not just general ledgers that they don't duplicate records that they go to the appropriate subsidiary ledger to get the right level of detail.

6. **Review and approval of Board Policy for Participating Local Entities, Other Issues and Public Comment.**

John Reidhead said that the discussion has been good surrounding the issues on the draft policy. He is hoping that the Board members had an opportunity to review it. The foundation for the policy was the rule for the State entities. Higher Ed. and the State follow the administrative rule. This policy would govern the local governments.

Senator Niederhauser agrees with Jonathan Ball that all entities should participate at some level.

John Reidhead said that Finance has the responsibility to help the entities get the data on the website and their resources are limited. That is one of the reasons for the one million dollar threshold. We don't have a lot of time to spend on entities that do not have a lot of technical ability. The smallest entities could be added at a later time.

Representative Sumsion feels that they should move forward, and stay with the one million dollar threshold. He said it would only exempt 7 charter schools.

Brenda Lee said that next year there are a lot of small service districts under one million dollars.

Jonathan Ball said that he feels that the issue will resolve itself because the database design of the website is elegant and simple and allows a lot of flexibility for the entities. He said the threshold of a million dollars will become irrelevant. People will find it is easy to use. He thinks they should leave the policy with the one million dollar threshold and revisit it in a couple of years if needed.

Senator Niederhauser encourages every entity under the million dollar threshold to continue to get their information online.

Ken Montague had a concern about the posting time. He said it would be difficult for them to make the one month deadline at yearend. They keep their books open longer than one month.

Brenda Lee stated that they could continue posting monthly even though they had not closed the year out. She said you do not have to have all your yearend entries within 30 days. It is an ongoing process until every entry is posted.

Senator Niederhauser would encourage all entities to meet the 30 days, maybe not a complete close, but people will anticipate yearend information.

Curtis Roberts asked how long it takes the Universities to close.

Troy Caserta said it is the same for the universities; it takes a couple of months to complete the yearend. The correct journal entries would overlap and make the final outcome right.

Curtis Roberts said that the Cache Valley Transit District receives yearend entries two months after yearend. He said he is facing challenges because in Excel he can't differentiate between the entries made in Feb. from entries made on Dec. 31; they post on a fiscal year. He said without the ability to delete and reupload, he will face significant challenges as he tries to go through entries and decide which entries have been submitted and those that have not and that will become a time consuming task.

Brenda Lee said they would work with him on it. She said Quick Books does not have an effective date versus and actual posting date. Brenda said she would talk with Curtis about any concerns he has and how they will handle them.

Curtis Roberts is not against transparency but some of the cost of providing the data is burdensome and hard to sustain over a long period of time. He has spoke with small cities that are nervous about their resources and having to commit to providing information to the website as they face lean budget years. He asked as the Board makes their decisions to consider those factors.

Dean Lundell-South Jordan City asked how soon they can start working on getting their information ready.

Brenda Lee stated that other counties and cities are already working with Finance. They have the given them the file layout and are working with them. She told Mr. Lundell when South Jordan City is ready to let them know. Brenda said a face to face meeting to explain the website will help them understand what is expected. It will make more sense to them after it is explained.

John Reidhead said they want to get a policy adopted. The policy follows the rule, but they also tried to address other issues, such as the million dollar threshold, the subsidiary versus general ledger and if entities use their own website. If they use their own website they would have to come to Finance for approval and if there was a question whether it was adequate then it would go before the Board for approval.

John said that they know the detail that is required for the state website. To be approved to use the entity's own website it would have to have similar detail that the website has now. They will have to wait and see what is submitted by these entities before they know what problems with these websites will surface.

Dr. Merrill hopes the policy is clear enough that Finance can make a decision about an entity's website, without having the Board make the decision.

Senator Niederhauser stated that the website's standard is already established as the bar, it gives the entities notice where they need to be. He likes the way the policy is written it makes entities accountable to meet a certain standard. He hopes the entities will not go to the expense of their own website when the money has already been spent on the state's transparency website.

Representative Sumsion said the state website is searchable and user friendly.

Jonathan Ball does not feel the Board should have to review every website, but have Finance bring a list to the Board of the entities that they considered. He feels Finance should filter the websites and do the first cuts. And in both cases there needs to be an appeals process as to whether the Board agrees or disagrees. Finance needs to agree there is enough functionality on the website, and the Board needs to retain the capacity to overrule the Division of Finance on determining whether or not that is the case.

John Reidhead asked if the Board wanted to consider the comments before they vote on the policy. He said they could come back at the next meeting with some language change to address Jonathan Ball's comments.

Dr. Randy Merrill made a motion to accept the policy as a first reading. And then advance it for another month of discussion. He said the school districts are ready to accept the policy as it is written.

Representative Sumsion feels that they should pass the policy and amend it with Jonathan Ball's comments.

Jonathan Ball suggested that the Division of Finance will review the proposal and make an initial determination whether the entity's website meets the recommendations of the policy. The Division of Finance will report their findings to the Transparency Advisory Board for final action. If the Division of Finance does not feel that the entity's website meets the determination of policy, the entity may appeal the decision to the Board.

Dr. Merrill thinks made a motion as a first reading to leave the amendment out in the public a month and get the amendments written in the policy.

There was a vote on the first reading with the amendment, it passed unanimously.

It was decided that there was a need to adopt the amended policy now rather than wait.

Jonathan Ball made a motion to reconsider the previous action on the Transparency Policy for local entities.

It was moved and seconded that they reconsider the previous action, and it passed unanimously.

Jonathan Ball moved to adopt the policy as it is written and include his previous amendment, with the understanding it can and will be amended in the future.

It was moved and seconded, and passed unanimously.

7. Next Board Meeting:

Tuesday March 16, 2010 8:00

There was a motion to adjourn. It passed and the meeting was adjourned.