

# Regents: We're exempt from open records

*PATRICK HENRY ONCE SAID THAT LIBERTY IS NEVER SECURE AS LONG AS GOVERNMENT DOES BUSINESS IN SECRET.*

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## Regents won't release KSU audit Board says it's exempt from open-records law

(The Manhattan Mercury – by Sarah Nightingale) The Kansas Board of Regents has declined to release the findings of an audit it commissioned to mark the transition of Kansas State University presidents, claiming an exemption to the state's open-records law.

The Manhattan Mercury filed a formal request for the audit last month. According to a May 12 response, the Board conducted a "2009 exit analysis of Kansas State University President Jon Wefald focusing on certain non-state accounts administered or controlled by the President or his direct subordinates."

The Regents, however, said the findings of the study are off limits.

This is believed to be the first time the Regents have conducted such an audit, though the new practice will mean similar audits of outgoing Kansas University chancellor Robert Hemenway and president of Pittsburg State University Tom Bryant.

According to Board of Regents attorney Theresa Marcel-Bush, the exit analysis is considered confidential because it "addresses the President's handling of certain non-state funded accounts, a matter involving an employee of the Board acting within the scope of that employment."

State law says that "public records shall be open for inspection by any person...and this act shall be liberally construed and applied to promote such policy." But the law also allows for a long list of exemptions. The one claimed by the Regents in this matter is for "personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment..."

Mike Merriam, an attorney for the Kansas Press Association, contended in an interview Wednesday that the Regents' logic was flawed.

"This is not a personnel matter," he said. "This is examining policy considerations, funding sources, things like that. The purpose of the exemption is to protect the privacy interests of the employee...But this has nothing to do with

Wefald's privacy."

The Regents, while they did not release the audit itself, did release a small collection of documents. Among them was an October 2008 agreement between the Board and Kansas City-based auditing firm Grant Thornton. According to that letter, the Board engaged Grant Thornton's services for an analysis of "KSU Alumni Association funds provided to the university, KSU Foundation accounts funds provided to the university, and Intercollegiate Athletic Association accounts," all from 2003 to the date of examination.

Also on October 20, a board letter addressed to Gary Hellebust, president of the Kansas State University Foundation, verifies the Foundation's agreement to fund the review.

According to that correspondence, the purpose of the review is to "provide assistance to the university and the Board in the presidential search process."

"The goal is to be able to provide assurances to an incoming president that things are in order, or to the extent that issues are identified that need to be addressed, they are addressed by the current administration prior to the arrival of a new president," the letter states.

Records showed bills from Grant Thornton amounting to almost \$126,000. It was not immediately clear if that was the total cost of the audit.

While the audit was not released, certain pieces of information have become public as a result of it. KSU officials disclosed to the Mercury in February documents related to overload payments authorized by Wefald to Bob Krause, the vice president for institutional advancement and athletics director, for his work related to athletics. Those payments totaled nearly \$250,000, from 2001 to 2008. Records related to those payments were uncovered in the process, officials said.

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