



UTAH STATE OFFICE OF REHABILITATION – STRUCTURAL IMBALANCE

SOCIAL SERVICES APPROPRIATIONS SUBCOMMITTEE
STAFF: STEPHEN JARDINE

ISSUE BRIEF

SUMMARY

A structural imbalance is when an agency's ongoing expenditures exceed ongoing revenues. The Utah State Office of Rehabilitation (USOR) has estimated a structural imbalance in state funds for its Vocational Rehabilitation program of \$6,300,000. Because of this, USOR is requesting \$6,300,000 additional one-time state funding for FY 2015. Due to the severity of the USOR shortfall and to ensure it meets budget expectations discussed with the Board of Examiners in November, 2014, USOR estimates that it will need to discontinue all paid client services for existing clients beginning in February/March through July 1, 2015 if it does not receive its request. In addition, to manage new client growth, USOR has developed a plan to establish a wait list (called Order of Selection). USOR projects the waiting list for new clients (in the first full year) due to this action to be over 10,000 eligible individuals. Existing clients, whose services would be impacted if USOR does not receive a supplemental appropriation, number approximately 14,000 individuals. USOR believes that these actions and additional budget reduction efforts will bring its budget into structural balance in FY 2016 and beyond.

The Vocational Rehabilitation program has been dealing with a structural imbalance since FY 2010 that has been masked by its use of one-time federal funding throughout that period. The structural imbalance is primarily the result of: 1) 44 percent increase in the number of clients served from FY 2007 through FY 2014, 2) state and federal budget cuts during the same period, and 3) an internal decision by USOR to continue providing services to all individuals who apply and are found eligible. To deal with budget reductions during this same period some surrounding states established waiting lists. Instead, USOR used a strategy of using one-time federal funding sources combined with reducing its overall expenditures per client in order to cover the structural imbalance in its budget during this period. The federal funding sources consisted of: 1) accumulated federal grant reserves, 2) one-time federal ARRA stimulus funds, and 3) one-time federal re-allotment funds. Sources number 1 and 2 have now been exhausted.

The Utah State Office of Rehabilitation is requesting \$6,300,000 one-time Education Fund for FY 2015. USOR believes this funding will allow it to "continue providing paid client services to existing clients and end the year with a balanced budget." USOR, has requested approval to implement an Order of Selection (waiting list) to manage incoming clients. Under this Order of Selection, USOR is required to continue providing services to all existing clients. However, because of the severity of the USOR shortfall, without additional state funding USOR also estimates that it will need to discontinue paid client services for all clients beginning in February/March 2015 through July 1, 2015.

LEGISLATIVE ACTION

The following are some options for dealing with the USOR structural imbalance:

1. **No additional state funding.** USOR estimates it will need to discontinue all paid client services for exiting clients beginning in February/March 2015 through July 1, 2015 to end the FY 2015 year with a balanced budget. The Analyst asked USOR to consider the reduction of staff as an alternative approach. If USOR used staff reductions to make up the shortfall in FY 2015, it estimates it would mean the termination of 264 employees (100% of Division of Rehabilitation Services staff) through the end of the fiscal year.
2. **\$3.15 million additional state funding.** USOR could delay discontinuation of paid client services and/or staff reductions in the current fiscal year until approximately April 2015.
3. **\$6.3 million additional state funding.** By funding the full one-time request for FY 2015 it would allow USOR to continue providing paid client services and maintain staff through the end of the fiscal year. USOR has presented a plan to bring its budget into structural balance going forward into FY 2016 and beyond.

4. **Replace \$116,900 in Education Fund with Speech and Hearing Impaired Program Dedicated Credits one-time.** The USOR Division of Deaf and Hard of Hearing (DDHH) currently receives funds (dedicated credits) from the Speech and Hard of Hearing Impaired program administered by the Public Service Commission. USOR has identified an additional \$116,900 of DDHH expenditures that could qualify under the uses of the Speech and Hearing Impaired fund as described at UCA 54-8b-10(5)(b). This option would use the fund in lieu of state Education Fund one-time only in FY 2015.
5. **Reduce \$410,300 from the indirect cost pool payment to the Utah State Office of Education.** The Utah State Office of Education (USOE) maintains an indirect cost pool to help maximize the amount of federal dollars obtained. An indirect cost pool is where common costs are identified and allocated to divisions based on derived benefit. USOR, as a division under the State Board of Education, shares some of the costs common to USOE. USOR is facing a structural imbalance shortfall of state funding in the current 2015 fiscal year of \$6.3 million. The issues surrounding this structural imbalance go back five or six years. However, oversight and support from the State Board of Education or USOE seem to have been lacking in identifying or reconciling this issue. As a result, the Analyst is recommending USOR reduce its payment to USOE for such support.
6. **Move USOR to an agency better suited to provide oversight and support.** The Analyst is recommending the Legislature consider moving USOR to another agency within state government where better oversight and fiscal support can assist USOR in its important mission. Two possible agencies with allied purposes are: 1) the Department of Workforce Services and 2) the Department of Human Services.

OVERVIEW

A structural imbalance is when an agency's ongoing expenditure exceeds its ongoing revenue. The Utah State Office of Rehabilitation believes it has a FY 2015 structural imbalance of \$6,300,000.

USOR describes its issue as follows:

Since Federal Fiscal Year 2007 USOR has experienced a 44 percent increase in the number of eligible individuals being served by the Vocational Rehabilitation program. In addition, USOR has experienced increased service costs in all client service areas, but particularly in two larger areas of services; vocational/college training tuition rates which have increased 30.1 percent over that same period of time, and medical costs for restorative services that have increased 32.5 percent. All categories of direct client service expenditures have increased by 60.9 percent since FFY 2008 due to the combination of inflation and increased demand.

USOR's revenue from the State of Utah in FY 2014 was 9.7 percent below that of the FY 2009 level. USOR has continued to serve all eligible citizens during this period through the combined use of one-time federal stimulus and reallocation funding. For FY 2015 all additional federal one-time funding has now been exhausted.

There are two basic ways to deal with a structural imbalance: 1) reduce ongoing expenditures and/or 2) increase ongoing revenues. USOR has primarily dealt with its structural imbalance thus far by utilizing available one-time federal re-allotment funds and one-time federal stimulus funds (method 2). For FY 2015, USOR is requesting \$6,300,000 additional one-time state funding. USOR believes that additional ongoing budget reduction efforts, including staff reductions and implementation of a waiting list to manage incoming clients, will bring its budget into structural balance in FY 2016.

COPAYMENT AND FEES NOT AVAILABLE AS AN OPTION

USOR was asked if copayment or fees could be implemented as a partial solution to the structural imbalance. USOR answered, "Current §34 CFR 361.54(b)(3) indicates that a Designated State Unit may not apply a financial needs test or financial participation related to services necessary to determine eligibility in current §361.48 (a), or assessment for VR need in current §361.48 (b); VR counseling and guidance under current §361.48(c); referral and other services under current §361.48(d); Job-related services under current §361.48(l); personal assistance services under current §361.48(n); or essentially accommodations such as auxiliary aids or services that an individual with a disability requires

to participate in the VR program. Additionally, a financial needs test or financial participation may not be applied to individuals receiving SSI or SSDI. USOR does apply a financial needs test for other services, however in those cases clients are required to give their contributions directly to service providers.” USOR does not know the cumulative total of client contributions. USOR states, “We do not have the ability to give a reasonable or accurate estimate of the amount that clients contribute. The only way we could get that data would be for us to review over 30,000 client records one by one. . . Our new AWARE system, once in production, will have this data tracked and we can run a report each year to show this number.”

THE SPEECH AND HEARING IMPAIRED FUND AS A POTENTIAL SOURCE OF FUNDING

The Speech and Hearing Impaired Fund program, administered by the Department of Commerce, currently has a surplus balance of \$3,625,000. [UCA 54-8b-10\(5\)](#) governs the use of these funds.

(5)

(a) Money collected from the surcharge imposed under Subsection (4) shall be deposited in the state treasury as dedicated credits to be administered as determined by the commission.

(b) These dedicated credits may be used only:

(i) for the purchase, maintenance, repair, and distribution of telecommunication devices;

(ii) for the acquisition, operation, maintenance, and repair of a dual party relay system;

(iii) to reimburse telephone corporations for the expenses incurred in collecting and transferring to the commission the surcharge imposed by the commission;

(iv) for the general administration of the program;

(v) to train persons in the use of telecommunications devices; and

(vi) by the commission to contract, in compliance with Title 63G, Chapter 6a, Utah Procurement Code, with:

(A) an institution within the state system of higher education listed in Section 53B-1-102 for a program approved by the Board of Regents that trains persons to qualify as certified interpreters; or

(B) the Division of Services to the Deaf and Hard of Hearing for a program that trains persons to qualify as certified interpreters.

USOR has provided to the Office of the Legislative Fiscal Analyst a list of additional expenditures it believes could qualify for one-time funding from the Speech and Hearing Impaired Fund for use by the Legislature in lieu of Education Fund in FY 2015. USOR indicated this list equals \$116,900. The Analyst recommends the Legislature consider using the Speech and Hearing Impaired Fund, which currently has a \$3,625,000 surplus, to fund \$116,900 of qualified expenditures in USOR in FY 2015 in order to reduce the amount of Education Fund USOR would need in FY 2015 to meet its current shortfall.

LACK OF OVERSIGHT FROM THE UTAH STATE BOARD OF EDUCATION (BOARD) AND THE UTAH STATE OFFICE OF EDUCATION (USOE)

Issues surrounding this structural imbalance go back five or six years during which time oversight and support from the Board and USOE seem to have been lacking in identifying or assisting USOR to understand and resolve this issue. As a result, the Analyst is recommending the Legislature consider moving USOR to another agency within state government where better oversight and fiscal support can assist USOR in its important mission. Two possible agencies with allied purposes are: 1) the Department of Workforce Services and 2) the Department of Human Services.

USOE also maintains an indirect cost pool to help maximize the amount of federal dollars that may be obtained. An indirect cost pool is where common costs are identified and allocated to divisions based on derived benefit. USOR, as a division under the State Board of Education, shares some of the costs common to USOE. Because oversight and support from the Board and USOE seem to have been lacking during the past five or six years, the Analyst is recommending the Legislature consider redirecting \$410,300 one-time from the USOR FY 2015 payment to USOE for such support and instead use it to help resolve the current shortfall.

GENERAL FUND EXPENSES/APPROPRIATIONS, CUSTOMERS SERVED, AND COST PER CUSTOMER SERVED

The following data is provided by the Utah State Office of Rehabilitation to illustrate some of the components affecting its structural imbalance in *only* its Vocational Rehabilitation Program:

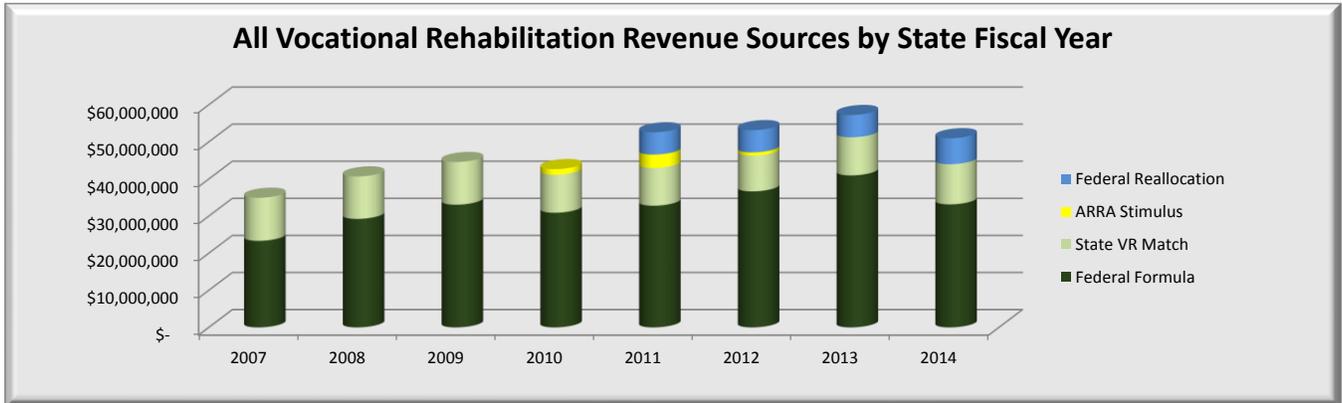


Figure 1

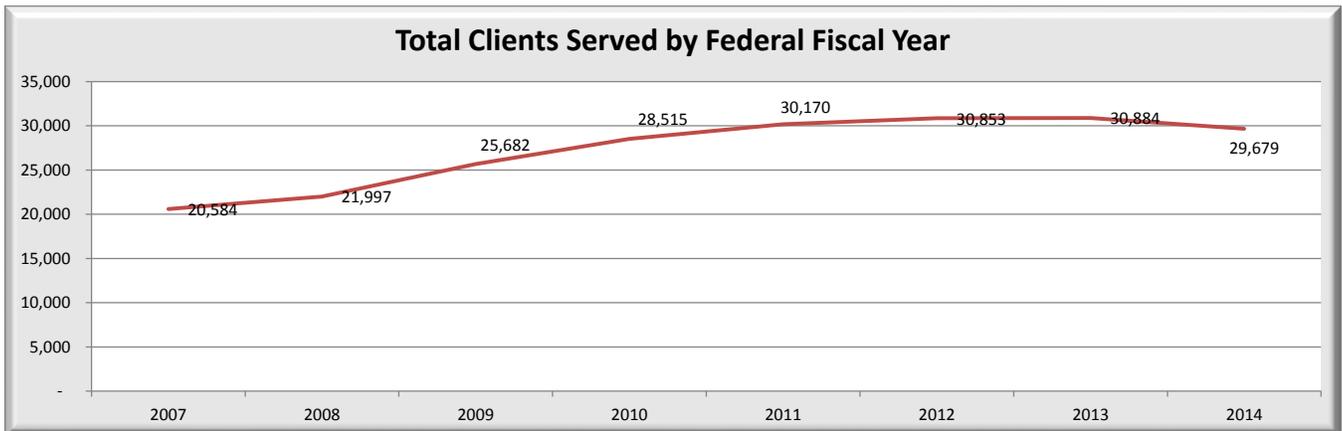


Figure 2

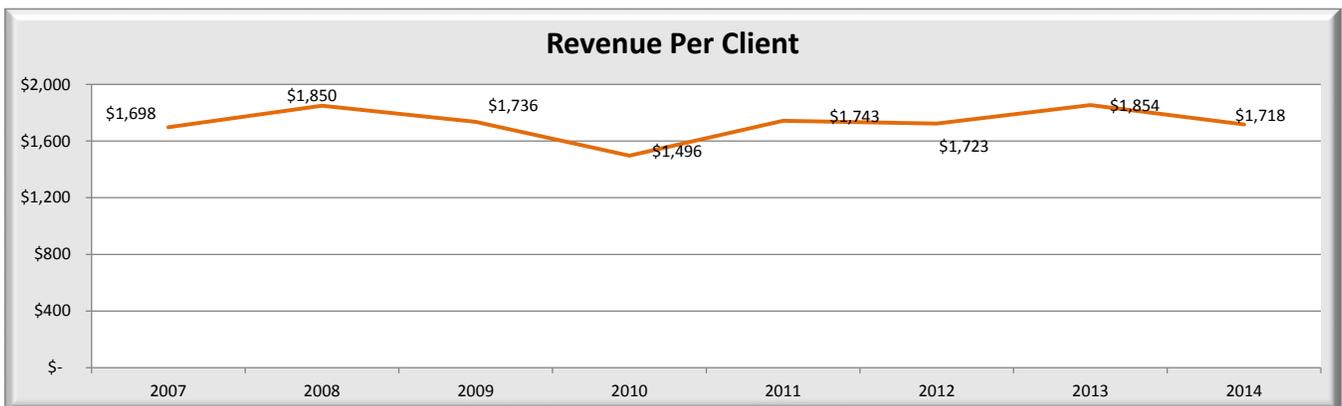


Figure 3

FEDERAL RE-ALLOTMENT FUNDS

Each year in August since 2011 USOR has received re-allotment funds from the federal Rehabilitation Services Administration (RSA). USOR states, “In July and August States who can’t match their allotment of Basic Support Grant funds return them to RSA. On or near August first of each year, states who can match, are given the option of requesting Re-Allotment Funds that have been returned by other states. There is, however, only a 15 day window in which to request these funds. The deadline for submitting a re-allotment request is August 15th.” These re-allotment funds have been approximately \$6 million to \$8 million for the past five years (FY 2011 through FY 2015) and have been used by USOR to provide a temporary solution to the USOR structural imbalance.

USE OF ONE-TIME FUNDING FOR A NEW CASE MANAGEMENT SYSTEM

Currently the Vocational Rehabilitation Program uses a case management system called IRIS which was designed in 1990. The IRIS system is outdated, cannot be reprogrammed to meet changing federal reporting standards, and is incompatible with more modern technologies. In response, USOR has purchased an off-the-shelf product being used by 35 other state rehabilitation agencies. USOR feels this system, known as AWARE, is the industry standard for rehabilitation services. The cost in the current year is \$1.5 million with a total estimated price tag of \$4.9 million. USOR estimates AWARE will be completed in FY 2016.

INCREASING CASELOADS

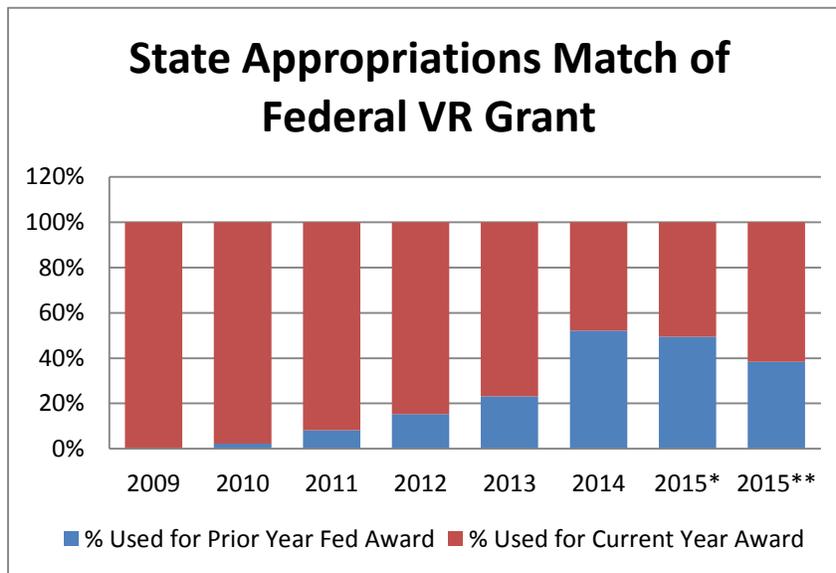
USOR has provided the following information regarding caseloads beginning in FY 2007 and projected through FY 2015. Caseload growth can be associated with changes in the economy and population.

Per Federal Fiscal Year									
Demand	2007	2008	2009	2010	2011	2012	2013	2014	2015 (Proj)
Clients Served	20,584	21,997	25,682	28,515	30,170	30,853	30,884	29,679	30,650

Table 1

STATE MATCH AND MAINTENANCE OF EFFORT (MOE)

The federal government requires a state’s allocation to the Vocational Rehabilitation Program (called a Maintenance of Effort or MOE) be at least the amount allocated in the year that was two years previous. If the federal government determines the MOE has not been complied with, there is a dollar for dollar loss of federal allocation assessed to a subsequent grant award. If USOR were to receive the \$6,300,000 FY 2015 request of state funding, this could affect its MOE calculations. USOR does not believe that a supplemental allocation of \$6,300,000 in FY 2015 would affect its MOE calculations because “USOR currently uses a significant portion of its current state appropriation to match the prior Federal award grant.” This is shown in the figure below prepared by USOR:



*2015 is a projected amount

** Assumes a \$6.3 million supplemental appropriation

Figure 4

USOR will not meet the MOE requirement for Federal Fiscal Year (FFY) 2015 based on the spending amount set for the FFY 2013 award and USOR will seek a waiver of the potential penalty for this non-compliance. USOR can establish a new MOE level by spending state funds in FY 2015 only to the level at which they want MOE to be for the 2017 Federal award. Based on timing differences in the state and federal fiscal years, USOR may use its state allocation across two federal fiscal years and because they will be establishing a new MOE level for the 2017 Federal award, a supplemental appropriation in FY 2015 will not impact current MOE requirements.

TIMING OF FEDERAL FISCAL YEARS AND THE PAYMENT OF STATE MATCH

When the federal government awards the basic Vocational Rehabilitation grant, it specifies that the grant can be used over a two year period. However, the full state match of 21.3 percent must be paid in the first federal fiscal year (in the year in which it is allocated) as is shown in the figure above. Federal allocation of the basic Vocational Rehabilitation grant is determined by formula, primarily using population and the Urban Consumer Price Index (CPI-U).

ORDER OF SELECTION AS A POLICY OPTION

USOR categorizes individuals based upon their primary disabling condition and uses three general disabling condition categories:

1. Most Significantly Disabled (19% of caseload)
2. Significantly Disabled (68% of caseload)
3. Not Significantly Disabled (13 % of caseload)

An Order of Selection establishes a waiting list by these three specified categories and could result, based upon USOR estimates, in placing 10,000 new applicants on that waiting list. An Order of Selection plan was recently submitted to the Rehabilitation Services Administration (RSA) for approval by USOR, after holding public hearings and receiving approval from the Utah State Board of Education. Implementation is pending approval of that plan and the actual beginning of a waiting list is anticipated to start approximately in February 2015.

USOR states:

In the event no additional money were to come by state allocation USOR will implement the Order of Selection to manage new client growth as soon as possible and paid services for existing clients would also cease once the

case service budget is fully expended which we anticipate will be sometime in February or March of 2015. USOR must be able to serve all existing clients before opening any of the categories established in the Order of Selection. However, by federal requirement, we would still need to accept applications and make determinations of eligibility/ineligibility, and for those eligible we would need to inform them that they are on "wait list" until such time resources come available to serve them. The requirement is then to work to open up services beyond those simply in plan at the time the Order is implemented by category of 'Most Significantly Disabled' (priority one), 'Significantly Disabled' (priority two), and lastly, 'Not Significantly Disabled.'

Under federal law, when USOR opens a category that has been designated as part of an Order of Selection clients are processed in the order which they applied unless USOR can fund the entire category. With regard to existing clients who are 'those currently receiving counseling and services under an Individual Plan for Employment (IPE),' they average about 2.5 years in service.

During the economic downturn beginning in 2008, states were faced with shrinking budgets. With regard to rehabilitation services, other states either provided additional funding to try and maintain service levels or made the policy choice (either overtly or by default) to implement an Order of Selection. Of similarly configured state agencies to that of Utah's (known as *combined* agencies), the following 18 states are currently using an Order of Selection: Arizona, California, Colorado, Georgia, Hawaii, Illinois, Indiana, Kansas, Louisiana, Maryland, Mississippi, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, and Wisconsin.

USOR SUMMARY OF ITS CURRENT STRUCTURAL IMBALANCE

USOR has summarized its current structural imbalance in the following manner noting that the following information is presented for USOR as a whole rather than just the Vocational Rehabilitation program:

Fully Funded State Supplemental / Full MOE Waiver / Federal Reallocation				
	SFY15	SFY16	SFY17	SFY18
Federal Funds	51,676,348	53,085,225	53,085,225	53,085,225
Federal Reallocation	4,259,023	4,500,000	2,000,000	
State Funds	22,511,100	22,511,100	22,511,100	22,511,100
State Supplemental	6,300,000	-	-	-
Total Revenue	84,746,471	80,096,325	77,596,325	75,596,325
Anticipated Expenditures	84,746,471	79,899,929	76,580,226	73,758,479
	-	196,396	1,016,098	1,837,845
Assumptions:				
State Supplemental Appropriation of \$6.3 million in SFY15 and State funding remaining steady thereafter				
MOE waiver/no penalty or future federal reductions				
15% case service savings - estimated savings as a result of the Order of Selection				
Federal Reallocation in the amounts shown above				
No State Supplemental / No MOE Waiver / No Federal Reallocation				
	SFY15	SFY16	SFY17	SFY18
Federal Funds	51,676,348	53,085,225	47,885,225	53,085,225
Federal Reallocation	4,259,023			-
State Funds	22,511,100	22,076,478	22,076,478	22,076,478
State Supplemental	- *	-	-	-
Total Revenue	78,446,471	75,161,703	69,961,703	75,161,703
Anticipated Expenditures	78,446,471 *	79,899,929	76,580,226	73,758,479
	-	(4,738,226)	(6,618,524)	1,403,223
Assumptions:				
*Case service - paid services coming to an end in Feb/Mar 2015 until July 1, 2015				
No State Supplemental Appropriation in SFY15 and State funding reduction of 2% thereafter				
No MOE waiver/ Estimated \$5.2 million penalty reducing federal funding in SFY17				
No federal reallocation				
Partial State Supplemental / Partial MOE Waiver / Federal Reallocation				
	SFY15	SFY16	SFY17	SFY18
Federal Funds	51,676,348	53,085,225	51,285,225	53,085,225
Federal Reallocation	4,259,023	4,500,000	2,000,000	
State Funds	22,511,100	22,076,478	22,076,478	22,076,478
State Supplemental	5,000,000 *	-	-	-
Total Revenue	83,446,471	79,661,703	75,361,703	75,161,703
Anticipated Expenditures	83,446,471 *	79,899,929	76,580,226	73,758,479
	-	(238,226)	(1,218,524)	1,403,223

Assumptions:***Case service - paid services coming to an end in May/June 2015 until July 1, 2015**

State Supplemental Appropriation of \$5 million in SFY15 and State funding reduction of 2% thereafter
Partial MOE waiver/ Estimated \$3.3 million waiver/ \$1.8 million penalty reducing federal funding in SFY17
Federal Reallocation in the amounts shown above

Additional Notes:

- 1 - Increase in federal funding shown above in SFY16-18 is due to the ASPIRE grant with a corresponding increase in anticipated expenditures.
- 2- All scenarios above assume that we receive the budgetary exemption for our year-end accrual.
- 3 - All scenarios above assume an MOE level of approximately \$11.2 million per year.
- 4 - Scenarios 2 and 3 include the termination of auxiliary paid services for clients at a date during the current fiscal year. These scenarios do not include any additional staff cuts by USOR beyond those made in 12/14. USOR believes that additional cuts would negatively affect USOR's ability to provide its core service within the VR program which is counseling and guidance. As an alternate scenario, in order to reduce additional staff proportionately to fund 50% of the budget shortfall over 4 months using the average DRS salary, USOR would need to lay off approx. 132 individuals which represents 50% of the entire DRS staff.

Table 2