



# UTAH COMMUNICATIONS AUTHORITY: PROCESS/INTERNAL CONTROLS

EXECUTIVE APPROPRIATIONS COMMITTEE

STAFF: GARY SYPHUS, JONATHAN BALL, STEVEN ALLRED, ANGELA OH, AND BRIAN FAY

ISSUE BRIEF

## **SUMMARY**

The Utah Communications Authority (UCA) is an independent state agency that provides “a public safety communications network, facilities, and 911 emergency services on a statewide basis for the benefit and use of public agencies, and state and federal agencies” (63H-7a-102). UCA receives direct funding from the State – both from the General Fund and from certain restricted accounts – and receives state taxpayer funds indirectly through public safety radio service fees paid by state agencies. UCA also has bonding authority. However, UCA is exempt from certain administrative, budgetary, and personnel laws to which other state agencies are subject. In the 2016 General Session, UCA was made subject to the Procurement Code.

Earlier this year, UCA reported that a now former employee admitted to using UCA credit cards paid with public funds for improper personal purchases. The fraud had been occurring for almost a decade, indicating lack of oversight and poorly executed internal controls were contributing factors. While the UCA board has taken a number of steps to improve oversight – including dismissing the employee, its accountant, and its Executive Director, the Legislative Fiscal Analyst recommends the following steps to improve financial oversight of public funds received by UCA, some of which UCA is working towards:

1. Amend statute to make UCA subject to the Budgetary Procedures and Administrative Services statutes;
2. Require UCA to use the state accounting system, FINET, to track and execute financial transactions;
3. Require that UCA use the state Purchasing Card rather than commercial credit cards for official business;
4. Direct the Division of Finance to consult with UCA on internal financial controls, make recommendations for further improvement, and report back to the Executive Appropriations Committee; and
5. Rescind some or all of the \$17.5 million FY 2016 General Fund appropriation to UCA until all of the above steps are complete, the agency has secured a new executive director, financial manager, and accountant, and UCA has developed and submitted to the Legislature a long-term strategic plan for investment of the \$17.5 million.

## **Background**

UCA/UCAN was created by the Utah State Legislature in 1997, House Bill 187, *State and Local Public Safety 800 Megahertz Project*. At the time, UCA was known as the Utah Communications Agency Network (UCAN). At its creation, pursuant to several agreements, municipalities and the state agreed to transfer certain emergency communications equipment and functions to UCA/UCAN to create a single, interoperable emergency network. Since its creation, UCA has been an independent state agency. Should it no longer be independent, much of UCA’s equipment would revert back to municipalities.

In the 2014 General Session, House Bill 155, *Utah Communications Agency Network and Utah 911 Committee Amendments* merged UCAN and the Utah 911 Committee to the Utah Communications Authority. UCA is responsible for the operation of radio networks, the statewide interoperability system, management of the 911 program, and FIRSTNET coordination.

UCA is governed by a board made up primarily of representatives from each county of the first and second class, the seven Associations of Government (AOG), the Native American Tribes, a member from each of the Utah Police, Utah Sheriffs and Utah Fire Chiefs associations, one representative appointed by the Utah National Guard, one representative of the State 911 committee, the Utah State Treasurer, and six other State representatives. In total, UCA has 27 board members with 7 representing the State of Utah, 18 representing various municipalities within Utah, 1 member selected by the Senate President, and 1 member selected by the Speaker of the House.

During the 2016 General Session, the Utah State Legislature passed Senate Bill 193, *Utah Communications Authority Act Amendments*, which requires the UCA board to create a comprehensive strategic plan, extends a restriction on funds in an account, and extends a due date for an audit and study, among other things. The Legislature also passed House Bill 380, *Utah Communications Authority Amendments*, which amends the method of appointing the chair of the board, requires the UCA board to create a comprehensive strategic plan, requires reports to certain legislative committees, and removes exemption from the Utah Procurement Code (House Bill 380).

**UCA Funding**

UCA receives both direct and indirect funding from the State. Direct UCA funding from the State in recent years includes:

<b>UCA Operating and Capital Budget</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY2017</b>
UCA Operating Budget as Submitted		16,539,685	17,464,254
Capital Improvements/Planning		1,500,000	16,000,000
<b>Total UCA Operating and Capital Budget</b>		18,039,685	33,464,254
<b>State Appropriations</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY2017</b>
General Fund	-	17,500,000	
Nonlapsing General Fund		(16,000,000)	16,000,000
GFR - E-911 Emergency Services	6,731,200	2,990,600	2,990,600
Nonlapsing - GFR - E-911 Emergency Services	(4,819,000)	4,819,000	-
GFR - Computer Aided Dispatch	2,573,500	2,573,500	2,573,000
800 MHz Radio Service Fees	4,409,900	4,500,000	4,500,000
<b>Total State Appropriations*</b>	8,895,600	16,383,100	26,063,600
Operating Pct State		90%	58%
Capital Pct State		100%	100%
Total Budget Pct State		91%	78%

\*State agencies may also pay a share of approximately \$1.2 million in microwave service fees collected by UCA in FY 2016 and FY 2017.

-Sources: Utah Public Finance website; Compendium of Budget Information (COBI); UCA FY 2016-17 Submitted Budget

## **Exemptions**

The UCA is not subject to the following administrative, budgetary, and personnel laws that other state agencies are required to follow (however UCA may be subject to other related laws specific to UCA or regulations adopted by the UCA Board):

1. Administrative Procedures Act (63G-4) - which among other provisions, determines/governs state agency legal rights, duties, and action;
2. Budgetary Procedures Act (63J-1) - which governs the budget process for state agencies such as budget structure, timeline on submission of budgets, procedures on appropriations and expenditures, among other elements;
3. Utah Administrative Services Code (63A) - which governs state agency relationships and processes including those with the Division of Finance and Division of Purchasing (except for 63A-4-205.5); and
4. Utah State Personnel Management Act (67-19) - which governs the management of state personnel including provisions regarding recruiting, compensation, performance, etc.

Although UCA is exempt from the above statutes, the UCA board is required to adopt budgetary procedures, accounting and personnel and human resource policies substantially similar to those from which they have been exempted from.

UCA is required to comply with the Utah Public Officers' and Employee's Ethics Act (67-16) and the Open and Public Meeting Act (52-4). UCA is also subject to limitations on Risk Management coverage requirements of Subsection 63E-1-304(2) and may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

## **Issue**

An employee that was up until recently employed by the UCA, admitted in civil court to misusing a corporate credit card and subsequently, misusing public funds. One factor contributing to the misuse of funds was among others, poorly executed internal controls. As an independent entity, the UCA is unique as far as structure and process compared to other state agencies. This autonomy may have both benefits and disadvantages. The Legislature may want to consider changes to UCA's current structure and process to enhance administrative/budget processes and accountability of public funds.

## **Recommendations/Options**

Below are some options to address the issue of internal controls and overall budget and administrative processes. The Legislative Fiscal Analyst recommends Option #2 to best address the financial oversight of public funds received by UCA:

*Option #1* – Maintain the status quo and allow for the UCA board to independently address any necessary changes to their administrative processes and internal controls if at all. This may allow for the UCA to be autonomous but may or may not result in stronger execution of internal controls to a satisfactory level of the Legislature.

Option #2 – Given UCA’s status as an independent entity, the LFA recommends UCA be subject to laws/processes they are currently exempt from as well as other changes. In addition the LFA recommends changes to appropriations to better monitor funding over the time:

1. Make UCA subject to the Budgetary Procedures Act. This will give policy makers prospective insight onto UCA’s budget, rather than the less than perfect retrospective look the Legislature has had after the fact.
2. Require UCA to use the state accounting system (FINET) rather than QuickBooks for accounting. This allows the Legislature and the Office of the Legislative Fiscal Analyst real-time access to UCA financial transactions. It also streamlines UCA reporting to the Utah Public Finance website - [Transparent.Utah.Gov](http://Transparent.Utah.Gov).
3. Require UCA to use the state Purchasing Card (PCard) rather than a commercial credit card. The PCard has many controls in place to detect and avoid fraud.
4. Direct the Division of Finance to consult with UCA on internal financial controls, implement any changes recommended by Finance, and report back to EAC or a subcommittee.
5. Rescind some or all of the \$17.5 million FY 2016 General Fund appropriation to UCA until all of the above steps are complete, the agency has secured a new executive director, financial manager, and accountant, and UCA has developed and submitted to the Legislature a long-term strategic plan for investment of the \$17.5 million.

This option may allow for the benefits of autonomy (albeit less than option #1 but more than option #3) but require adherence to established standards in statute that other state agencies are currently required to follow.

Lastly, the Legislature may want to consider conducting a review of all independent state agencies’ internal controls and processes. Structure processes of all independent state entities similar to what the Analyst recommends for UCA above.

Option #3 – Convert UCA into a state agency or a division within another state agency subject to all of the laws that other state agencies are subject to. This would eliminate the autonomy of the UCA but as a state agency would be subject to all of the established standards in statute for administrative/budget processes and accountability of public funds.