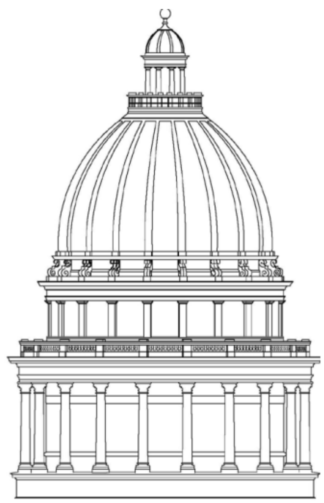
REPORT TO THE

UTAH LEGISLATURE

Number 2015-10



A Performance Audit of USOR's Budget and Governance

September 8, 2015

Office of the
LEGISLATIVE AUDITOR GENERAL
State of Utah

STATE OF UTAH

Office of the Legislative Auditor General

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Audit Subcommittee of the Legislative Management Committee
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Senator Gene Davis • Representative Brian S. King

JOHN M. SCHAFF, CIA
AUDITOR GENERAL

September 8, 2015

TO: THE UTAH STATE LEGISLATURE

Transmitted herewith is our report, **A Performance Audit of USOR's Budget and Governance** (Report #2015-10). A digest is found on the blue pages located at the front of the report. The objectives and scope of the audit are explained in the Introduction.

We will be happy to meet with appropriate legislative committees, individual legislators, and other state officials to discuss any item contained in the report in order to facilitate the implementation of the recommendations.

Sincerely,

John M. Schaff

John M. Schaff, CIA
Auditor General

JMS/lm

Digest of
A Performance Audit of USOR's Budget and Governance

Since the 2008 recession, Utah State Office of Rehabilitation (USOR) has had problems managing its budget. These difficulties eventually led to the request of this audit by the Social Services Appropriations Subcommittee. We recognize that the Board of Education (USBE or the Board), USOR, and Utah State Office of Education (USOE) have made and plan to continue making aggressive organizational changes to address their problems.

This audit answers the following questions:

- Why was USOR's budget and financial management process inadequate to prevent budget problems?
- Why were USOR's and USOE's oversight efforts inadequate to identify and prevent budget problems?
- Is USOE the best place for USOR to be housed within Utah state government?
- Was USOR's use of money from the Visually Impaired Trust Fund to help fulfill their vocational rehabilitation match appropriate?

Chapter II
USOR Mismanaged Its Budget

USOR's Budget Practices Were Unsustainable. Although warned of potential financial risks, USOR lacked financial planning and budget controls. As a result, the agency used unsustainable budget practices to meet uncontrolled costs. This ultimately resulted in USOR:

- Running a $4.9 million deficit in 2014
- Eliminating approximately $17 million of federal spending reserves traditionally available in the second year of USOR's vocational rehabilitation (VR) grant
- Needing a $6.3 million state supplemental appropriation in 2015
- Anticipating a potential penalty from the federal government of $5 to 6 million

These unsustainable practices were made possible by USOR accelerating its use of federal funds and exploiting the timing difference between state and federal fiscal years.

USOR and USOE Internal Accounting Lacked Adequate Budget Processes and Controls. Regular budget reports submitted to the Board by USOE internal accounting (IA) were inaccurate and unreliable. As the budgeted amounts steadily increased, they gave the Board and USOR management unrealistic expectations of USOR's spending ability. These budgeting inconsistencies can be partially explained by USOR's insufficient budget staff and inadequate support from USOE IA.

USOR and USOE Internal Accounting Budget Mismanagement Impacted USOR's Federal Funds Authorizations. IA provided poor federal funds information on which the Legislature based their federal funds authorizations. Because IA's federal funds estimates were so inaccurate, the Legislature's authorizations bore little resemblance to USOR's actual funding stream. USOR violated Utah's Federal Funds Procedure Act as a further consequence of these poor budget controls.

USOR Could Have Potentially Avoided These Problems. As the number of USOR clients increased and state funding decreased, USOR management could have made use of a client waiting list and sought relief from potential federal penalties instead of spending its budget in an unsustainable way. Instead, USOR is now facing a penalty of approximately $5 to 6 million.

Chapter III
Weak Oversight and Communication Prolonged and Worsened Financial Problems

Nonfunctioning Oversight and Poor Communication Aggravated Financial Problems. Lack of communication between USBE, USOE, and USOR prolonged the organization's financial problems. A fundamental breakdown in oversight and communication among USBE, USOE, and USOR delayed the discovery of the budget problems reported in Chapter II. This delay allowed USOR's financial health to decline further than it would have had the problems been identified earlier. These issues were due to governance and management functions and interactions that were not clearly detailed in policy.

USBE Failed to Provide an Appropriate Level of Governance of USOR. We believe that USBE overlooked its USOR governance responsibilities due to its significant education focus, thus giving inadequate support or attention. In addition, USOR did not have a necessary or appropriate level of interaction with the Board. This lack of attention on USOR allowed it to function essentially without oversight. Since USOR's budget issues came to its attention in 2013, USBE has taken steps to provide more oversight and better define each entity's role.

USOE Failed to Provide Oversight of USOR. USOE overlooked its responsibility to provide oversight of USOR. This responsibility included developing controls and monitoring USOR's finances. In addition, USOE did not ensure that USOR was receiving proper support. Since USOR's financial issues came to light, the new state superintendent has aggressively addressed these issues.

Chapter IV
USOR's Mission Would Be Better Served Elsewhere in State Government

USOE Is Not the Best Location for USOR. USOE's educational focus and USOR's broader employment-based focus do not align. Because of these disparate missions, it is possible that USOR may not receive sufficient oversight without a change in governance. In addition, a comparison of programs similar to USOR in other states shows that rehabilitation programs are seldom governed by a state educational entity.

DWS Appears to Be the Most Likely Candidate for USOR Placement. Our analysis shows significant potential for alignment between USOR and DWS. First, they have significant mission and clientele overlap. Second, the Office of the Legislative Auditor General and Legislative Fiscal Analyst have made recommendations in the past to combine USOR to DWS. Third, at least one other state is moving rehabilitation under its labor department in response to federal changes and budget problems similar to those at USOR discussed in this report. DWS points out that they enjoy a "long-standing partnership with USOR," and are willing to actively partner with USOR.

Stakeholder Concerns Exist. Various stakeholders, including USOR, client groups, advisory councils, and individual citizens have historically expressed concerns with moving USOR from USBE's governance. These fears could be addressed. If a move is undertaken, federal regulations require public meetings and consultations with stakeholders to address concerns.

Other Options Exist for USOR Placement. Although DWS appears to be a likely fit for USOR, there are other viable options. We examined the possibilities of placing USOR under DHS or creating a new independent agency.

Chapter V
Use of Visually Impaired Trust Fund for VR was Imprudent

Guidance on Fund Use Is Limited. Although it is referred to as the Visually Impaired Trust Fund (VITF), there is no documentation of its establishment as a legal trust, and therefore no strict requirements that go along with that distinction. We recommend that the Legislature clarify exactly what type of fund the VITF should be, with accompanying overriding restrictions. Due to the lack of clear legal standards, it was within the power of the Board to use VITF for VR purposes.

VITF Use Was Questionable. VITF use as state match may not have been appropriate, given poor record keeping. The federal government has not questioned this use. In addition, the use of $500,000 VITF money essentially supplanted the funds usually used for blind and visually impaired VF clients.

Options Exist for Possible Reimbursement of the Funds. The Legislature may want to determine whether it is comfortable with the way these funds were spent, whether the funds should be reimbursed, and if so, how. Although it was legal, use of the fund for VR expenses was unusual and there has been great concern in the blind and visually impaired community. Federal requirements prohibit using federal grants to reimburse the fund, so any reimbursement would have to come from state funds.

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September 8, 2015

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Chapter I
Introduction

The Utah State Office of Rehabilitation (USOR) is housed within the Utah State Office of Education (USOE). USOR offers multiple programs to help Utahns who are disabled[1] achieve employment, greater independence, and a higher quality of life. Primarily, USOR provides a range of vocational rehabilitation (VR) services to Utahns who are disabled with the goal of obtaining employment. VR services include training, education, transportation, assistive technology, and others. In federal fiscal year 2014, USOR served approximately 20,000 clients.

As part of its oversight of USOR, USOE provides both internal accounting and information technology services to USOR. Throughout this report, when we refer to USOR's budget management until 2014, we are primarily discussing USOE internal accounting's actions on behalf of USOR. Despite this distinction, USOR itself was not without responsibility for its budget formation, monitoring, and any resultant mistakes.

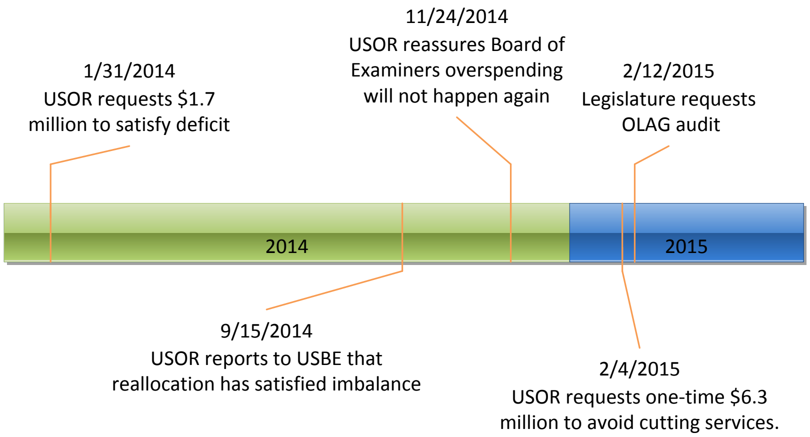
Brief History of Audit Request

USOR had problems managing their budget starting in 2008.

Since the recent recession, USOR has had problems managing its budget. These difficulties eventually led to the request of this audit by the Social Services Appropriations Subcommittee (SSAS). Figure 1.1 shows a timeline of the oversight bodies' knowledge of these problems.

[1] Utahns who are disabled includes individuals with mental illness, cognitive disabilities, orthopedic amputation, drug or alcohol addiction, and individuals who are deaf, hard of hearing, blind, or visually impaired.

Figure 1.1 Timeline of USOR's Interaction with State Oversight Bodies. USOR reassured multiple oversight bodies that their deficit was satisfied while still in the midst of financial problems.



Source: Legislative committees, Board of Examiner, and Board of Education minutes

USOR has failed to provide accurate and complete information to oversight bodies.

During the 2014 General Legislative Session, USOR appeared before the SSAS to report a pending budget deficit of $7.8 million. In a January 2014 meeting with the SSAS, USOR stated that an additional appropriation of $1.7 million would allow USOR to acquire one-time federal funds and completely satisfy its looming budget deficit. USOR emphasized a waiting list of 10,000 clients as a consequence of the Legislature failing to act. Much of the information presented by USOR to its oversight bodies in Figure 1.1 was inaccurate or incomplete, which may have contributed to the length and depth of the problems.

Despite receiving financial assistance from the Legislature in 2014, USOR failed to take into account the timing of the year-end financial closing process for the state fiscal year and exceeded its budget by $4.9 million.[2] After the close of the state fiscal year, USOR obtained the one-time federal funding to which it referred during the 2014 General Session. In September 2014, USOR reported to the State Board of Education (USBE) that the budget deficit and the overarching structural imbalance[3] had both been resolved.

[2] $1.2 million of the $4.9 million budget deficit in 2014 was comprised of an accrual for services USOR had authorized but not yet paid.

[3] USOR's budget problems have been referred to as a structural imbalance; that is a misnomer. We will use the terms mismanagement or budget problems throughout this report because it is a case of an agency not controlling its program relative to available revenue.

Because USOR exceeded its budget for state fiscal year 2014, the agency was legally required to appear before the Board of Examiners[4] in November 2014. In their presentation, USOR and USOE management stated that the underlying budget problems had been solved and that such an occurrence would not happen again.

Despite reports that the budget issues had been corrected, USOR appeared before the SSAS during the 2015 General Session and requested a $6.3 million supplemental appropriation in order to avoid an immediate halt of paid client services to its approximately 20,000 clients who are disabled. With a lack of viable alternatives, the Legislature appropriated the funds and requested this audit to ensure that the current problems are thoroughly understood and that long-term solutions are developed by USOR and, by extension, USOE and USBE.

In the 2015 General Session, USOR had to request a $6.3 million supplemental appropriation to avoid a halt of paid client services.

We would like to acknowledge the significant work done by the Office of the Legislative Fiscal Analyst in bringing these problems to light and serving as the catalyst for the subcommittee's audit request. The Office of Legislative Research and General Counsel has also provided assistance on this report. Both offices' input and assistance have been invaluable.

We also recognize that the Board of Education, USOR, and USOE have made and plan to continue making aggressive organizational changes to address their problems.[5] Leadership at USOE, USOR, and USBE has changed significantly since these problems were discovered, partially in response to USOR's budget deficit.[6] However, there is still much work to be done, and it will take time to regain USOR's financial footing. These are not problems that will be solved by the next legislative session, but appropriate steps are being taken.

[4] If an agency's line item is over expended at the close of a fiscal year, the agency must report to the Board of Examiners which consists of the Governor, the State Auditor, and the Attorney General.

[5] These efforts will be discussed in more detail in the following chapters.

[6] See Appendix A for a detailed timeline of the financial events of the past few years, including the tenure of recent management for both USOR and USOE.

In addition, we would like to note that this is the first of two anticipated audits of USOR operations. The second audit (to be released at a later date) will focus on the provision of vocational rehabilitation services and related cost controls.

The scope of this audit focuses on USOR's budget problems and oversight concerns.

Audit Scope and Objectives

1. Why was USOR's budget and financial management process inadequate to prevent budget problems?
2. Why were USOR's and USOE's oversight efforts inadequate to identify and prevent budget problems?
3. Is USOE the best place for USOR to be housed within Utah state government?
4. Was USOR's use of money from the Visually Impaired Trust Fund to help fulfill their vocational rehabilitation match appropriate?

Chapter II
USOR Mismanaged Its Budget

The recent budget problems at the Utah State Office of Rehabilitation (USOR or the agency) were caused by a lack of adequate budget processes and controls. Without budget oversight, USOR made use of unsustainable budget practices to exploit the complex nature of its state and federal revenue and temporarily satisfy expenditures that had grown out of control. These unstainable budget practices led to inaccurate estimates and authorizations of federal funds. USOR management could have potentially avoided or mitigated these problems with different responses to factors affecting program operations.

USOR's shortcomings discussed in this chapter are, by extension, also deficiencies of the Utah State Office of Education (USOE) and the Utah State Board of Education (USBE or the Board) as discussed in Chapter III. The entities share responsibility because USOE has historically provided accounting services to USOR through an indirect cost pool.[7] These shortcomings resulted in USOR:

- Running a $4.9 million deficit in 2014[8]
- Eliminating approximately $17 million of federal spending reserves traditionally available in the second year of USOR's vocational rehabilitation (VR) grant
- Needing a $6.3 million state supplemental appropriation in 2015
- Anticipating a potential penalty from the federal government of $5 to 6 million

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[7] See Appendix A for a timeline of the events of the past two years, including the tenure of recent management for both USOR and USOE.

[8] This $4.9 million deficit was comprised of a $3.7 million overexpenditure and a $1.2 million accrual of client service expenses that USOR had authorized.

USOR's Budget Practices Were Unsustainable

The budget practices used to sustain USOR's increasing expenses were unsustainable.

Although warned of potential financial risks, USOR lacked financial planning and budget controls. As a result, the agency used unsustainable budget practices to meet uncontrolled costs. These unsustainable practices were made possible by accelerating the use of federal funds and exploiting the timing difference between state and federal fiscal years.

Unsustainable Budget Practices Covered Growing Expenditures

Despite clear warnings and direction from the Rehabilitation Services Administration (RSA),[9] USOR failed to make adequate preparations to effectively manage its finances amid program changes.

A 2009 federal report advised USOR to improve their weak financial planning process.

In a 2009 report, RSA expressed concerns about USOR's weak financial planning process. The report warned that, because USOR anticipated reductions in state revenue, it could be less likely to meet the financial conditions of its federal VR grant. RSA also warned that budget cuts, "may have a grave impact on the level of services that have been historically provided to USOR consumers." USBE was given a brief overview of this RSA report that included only positive aspects of USOR performance.

An increase in demand for VR services led to unsustainable spending.

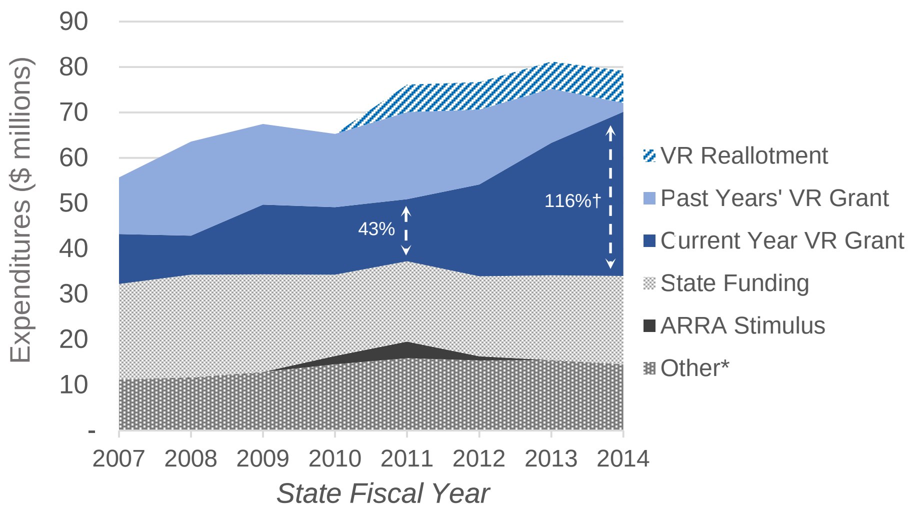
As predicted, USOR's ongoing state appropriation was reduced along with that of many other state agencies. Demand for VR services also increased unchecked though USOR had the ability, with the approval of RSA, to restrict it using a waiting list. These actions had the critical effect of increasing USOR's expenditures to an unsustainable level. Because USOR lacked a budget process or strategy to guide the agency through these changes, USOR management decided to serve the growing number of eligible VR clients without recognizing that they had inadequate resources to do so on a long-term basis.

Figure 2.1 illustrates how funds were used to satisfy USOR's increased expenses. This was done by both spending its VR revenue

[9] RSA is the federal government entity that oversees vocational rehabilitation grants and programs throughout the United States.

faster than it had in the past and requesting one-time federal funding (VR reallotment) from 2011 to the present.

Figure 2.1 USOR Spent an Increasing Portion of Its VR Grant in the First of Two Possible Years. It also requested additional one-time VR funding from 2011 to the present.



Source: Auditor generated
†Expenditures beyond USOR's basic VR grant amount reflect the agency's $4.9 million deficit in SFY 2014.
**This includes primarily federal funding for USOR's Division of Disability Determination Services. It also includes independent living grant revenue along with various other relatively small revenue sources.*

USOR's VR grant use was accelerated to an unsustainable level.

Because federal VR grants (both shown in solid shades of blue) may be spent over a two-year period, multiple grants can be expended concurrently. From 2007 to 2011, USOR met less than half of its VR expenses with current-year grant revenue (dark blue), leaving spending reserves that could be spent in the second year (light blue). This can be seen in 2011 when USOR spent 43 percent of its basic VR grant on state fiscal year (SFY) 2011 expenditures.

Beginning in approximately 2012, USOR began to spend an increasing amount of VR grant money in the first year. This is shown as the dark blue area grows and the light blue diminishes until, in 2014, USOR spent 116 percent of its federal fiscal year (FFY) 2014 grant. By doing this, USOR ran a budget deficit, spent at higher levels than it had historically, and reduced the amount that had typically carried forward into year two of the grant. In past years USOR would have approximately $17 million or more to spend on the second year of the grant. In contrast, LFA reported in the 2014 General Session that USOR had no federal grants with remaining spending reserves.

USOR also used one-time federal money to cover expenses.

Because spending its grants faster was not, by itself, enough to satisfy its higher costs, USOR also applied for and accepted one-time VR reallotment money.[10] This is shown in the figure as the striped blue portion. In order to accept this funding, USOR exploited the overlap of state and federal fiscal years as discussed in the next section of this chapter. USOR also received stimulus funds during this period.

USOR's use of VR grant money was permissible but, as now evident, not in line with appropriate budget practices. Without any clear strategy or controls, it appears to have been a haphazard, uncontrolled effort to satisfy costs that had been allowed to grow unchecked. The practice was unsustainable and ultimately led to a $4.9 million budget deficit in 2014 and a $6.3 million supplemental appropriation in 2015 in order for USOR to keep serving its approximately 20,000 clients.

Neither USOR nor USOE had sufficient control over the USOR budget.

Given the complex nature of USOR's budget, the need for USOR to have a strong financial planning process is clear. No one in USOR or USOE had sufficient knowledge of, or control over, the USOR budget resulting in a system wide lack of financial support. We found no evidence that an analysis like that shown in Figure 2.1 was performed before 2014. As a result, the overspending was not prevented and went undetected for multiple years.

Recently USOR hired a finance director to monitor and control the agency's budget.

We believe that with clear financial strategy and controls, USOR management could have successfully guided the agency through its budget and program changes. USOR has since hired a finance director who is tasked with developing this strategy and who, with the superintendency,[11] has begun to control the agency's budget.

USOR Exploited the Timing Difference Between State and Federal Fiscal Years to Cover Increased Expenditures

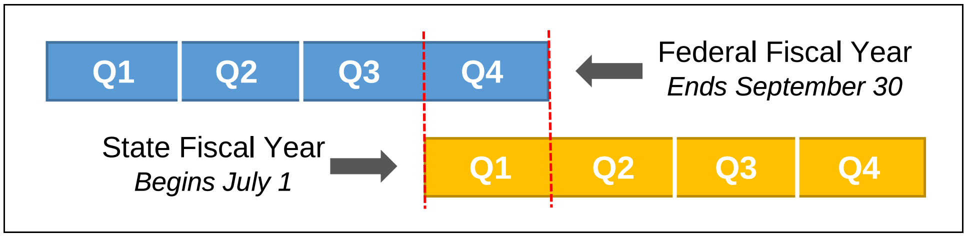
The Utah SFY and the FFY overlap from the beginning of July to the end of September each year. For example, SFY 2014 began three

[10] Each year, multiple states relinquish unused VR grant funding to RSA. RSA then redistributes this funding to states that apply and are able to satisfy the necessary 21.3 percent match in state funding.

[11] The superintendency includes the superintendent and associate superintendent over internal accounting.

months before FFY 2013 concluded. Figure 2.2 illustrates this overlap.

Figure 2.2 The State and Federal Fiscal Years Overlap from July to September. Because of this overlap, USOE can spend its state appropriation toward the prior federal year's grant award.



Source: Auditor generated

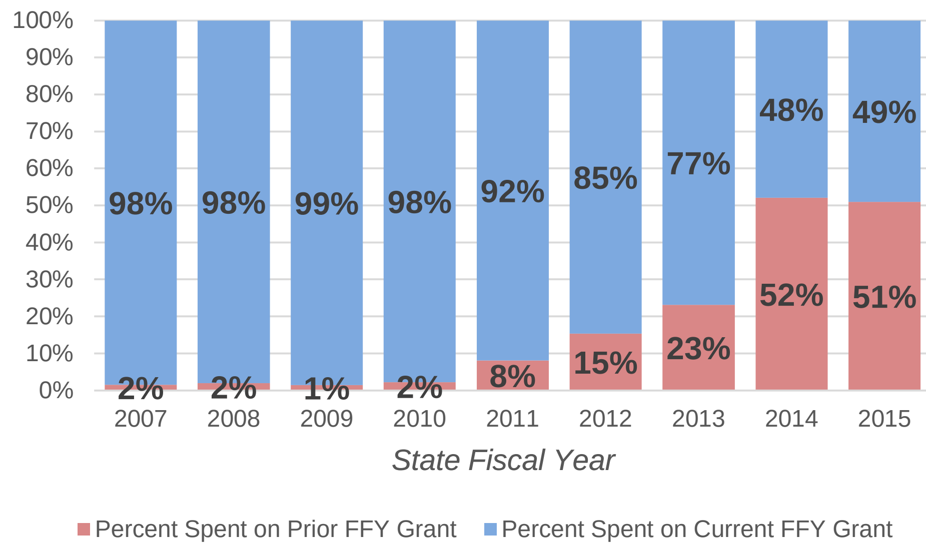
Because of the overlap shown in Figure 2.2, USOR has the opportunity to spend portions of two years' worth of its state appropriation toward one federal grant award.[12] This is concerning because state funding meant for one federal fiscal year grant could be disproportionately applied to the prior year's federal grant leaving less state funding available for its original purpose and timeframe. This is precisely why USOR needed an emergency supplemental appropriation during the 2015 General Session.

USOR can spend two years of state appropriations during one federal grant award, leaving an insufficient amount for the next grant.

Figure 2.3 shows how USOR applied increasing amounts of its state appropriation on prior years' federal grant awards from 2011-2015. To the extent that this is done strategically and within controlled limits, the practice is allowable. However, the figure shows that the practice grew to an unsustainable level.

[12] State contribution for the VR grant, including reallotment, must be used for match and maintenance of effort. Note that maintenance of effort becomes the level that must be met if it exceeds the required match in a given year.

Figure 2.3 USOR Spent an Increasing Amount of State Funding on Prior Federal Fiscal Year Federal Awards. By SFY 2014, USOR spent more than half of its state appropriation on its prior-year VR grant award.



Source: Division of Finance Data Warehouse

By 2014, at least 50 percent of USOR's state appropriations were spent on the prior-year's grant.

Figure 2.3 shows that USOR received its SFY 2011 state appropriation and applied 8 percent of it toward its FFY 2010 VR grant award. This was done, at least in part, to match the one-time VR reallotment (striped blue) shown in Figure 2.1. Figure 2.3 also shows that, after the large amount of expenditures in FFY 2013, USOR needed to spend a much larger amount of its SFY 2014 state appropriation to cover program costs, meet grant requirements, and continue receiving one-time reallotment money. Because this shift to cover prior year overspending left USOR with limited state funds for the remainder of the year, the agency ultimately overspent its budget.

RSA discovered USOR was using its funds disproportionately.

The figure also shows that USOR was not in compliance with federal regulations governing cash management which require that state funds must be applied proportionately to federal funds. Because USOR disproportionately spent current state appropriations on prior year grants, it lacked sufficient funds to proportionately match its subsequent VR grant. Its state spending therefore fell out of proportion and RSA became aware of USOR's budget problems. According to federal law, USOR should have spent $7.2 million in state funds by March 2014 in order to match the federal funds it had expended. However, USOR had only spent $8,500 due to a lack of available state funds.

USOR and USOE Internal Accounting Lacked Adequate Budget Processes and Controls

Regular budget reports submitted to the Board by USOE internal accounting (IA) were inaccurate and unreliable. As the budgeted amounts steadily increased, it gave the Board and USOR management unrealistic expectations of USOR's spending ability. These budgeting inconsistencies can be partially explained by USOR's insufficient budget staff and inadequate support from USOE IA.

Working Budgets Submitted To the Board Were Unreliable

IA submitted regular reports showing USOR's working budget to USBE. A historical review of these reports from 2013 to 2014 illustrates the following:

Monthly budget reports show lack of control and questionable budget practices.

- Highly questionable budget practices used by IA
- The general lack of control over the USOR budget
- The lack of budget oversight by the superintendency

A working budget is an annual plan or forecast that identifies how much money is available, what has been spent, and how much is left to spend. Throughout a fiscal year, the working budget total should remain fairly constant and serve to benchmark and control spending. Expenditures should grow as the year goes on and, consequently, remaining funds should shrink.

Figure 2.4 shows substantial, unrealistic changes in the working budget as reported to USBE in its regular meetings in SFY 2013 and 2014. We selected a sample of five months in each state fiscal year to give an idea of how the budget numbers changed.

Figure 2.4 USOR's Budget Numbers Reported to USBE Were Highly Inconsistent. The working budget grew as large as $110 million in SFY 2014, far beyond reasonable expectations.

State Fiscal Year	Reporting Month	Total Available Funds (Working Budget)	Expenditures to Date	Remaining Funds
2013	July	$ 80,986,000	$ 1,742,000	$ 79,243,000
	October	86,470,000	21,698,000	64,771,000
	December	89,129,000	34,370,000	54,758,000
	April	94,691,000	63,788,000	30,903,000
	June	95,262,000	81,101,000	14,161,000
2014	June*	$ 95,033,000	$ 5,755,000	$ 89,278,000
	October	85,935,000	24,181,000	61,754,000
	December	110,791,000	33,936,000	76,855,000
	April	79,624,000	63,004,000	16,620,000
	June	82,370,000	77,899,000	4,471,000

Source: USBE Board Meeting Packets 2013-2014
**Despite being dated 6/30/2013, USOE internal accounting staff confirmed that this budget report was the first report for SFY 2014.*

Finance staff increased the working budget as expenditures increased without basis.

Figure 2.4 shows a disturbing trend in USOR's reported working budget during 2013 and 2014. Instead of controlling USOR's spending within its actual revenue, USOE finance staff assigned to manage USOR's budget simply increased the working budget as USOR spent beyond available resources. As illustrated in the Remaining Funds column, this gave USBE and USOR the false impression that USOR had ample funding to cover its growing expenditures.

The working budget was inflated in this way to avoid the appearance of overspending. This contributed to USOR spending an unprecedented $81.1 million in 2013 as shown in the figure above and by the growth of expenditures in Figure 2.1.[13] The working budget estimate climbed as high as $110.8 million in December of SFY 2014. This is a significant overestimate of USOR funding, reflecting substantial errors in budget preparation.

[13] Because of the way USOR disproportionately spent state funds in SFY 2013 and SFY 2014 to cover its FFY 2013 VR grant expenditures, it currently faces an approximately $5 to 6 million federal penalty that may reduce its future VR grant awards.

These inaccurate budget numbers were reported with the review and approval of the USOE controller. USBE cannot be reasonably expected to assemble years' worth of budget data to examine long-term changes and trends. USOE executive staff charged with oversight of USOR should have continually monitored the budget and reported this volatility to the Board as a significant red flag and sought to understand and correct the underlying causes of such inconsistency. The extent of the budget inaccuracy relative to USOR's actual funding stream illustrates the primary cause of USOR's budget problems, namely that there was no substantive budget oversight or control in place within USOR or USOE.

The Board cannot be expected to compile and compare all budget reports, but should rely on USOE's analysis.

USOR Had Insufficient Financial Staff

Until recently, USOR operated with no in-house finance personnel. Job descriptions for the state superintendent, associate superintendent, USOE internal accounting director, and the USOR budget manager (a USOE internal accounting employee) clearly describe a responsibility over the USOR budget. In response to evidence of mismanagement, some of these employees reported that they lacked adequate time and payment processing support to perform their budget duties as required. USOR has since hired an internal finance director with support staff to remedy this.

USOR did not have sufficient financial staff for a budget of its size and complexity.

Discussions with other departments in Utah and VR programs throughout the country found that agencies with comparable programs and funding streams have dedicated budget personnel and a system of regular review in decreasing detail up to the executive level. USOR should continually evaluate the appropriate level of financial skills and support needed to adequately manage its budget and work to build its staff, policies, and procedures accordingly.

Financial Support and General Administrative Services have Been Billed to USOR by Means of an Indirect Cost Pool. USOE agreed to provide certain administrative services to USOR in exchange for sharing USOE's costs for those administrative positions. Among the shared costs were accounting and financial support, human resources, information technology, and others. Because of USOE's inadequate service, USOR has paid at least $1.1 million to employ people in administrative functions, including the budget and finance positions mentioned above, whose services were ostensibly covered by the indirect cost pool.

USOR has paid at least $1.1 million for services it did not receive from USOE.

Although USOR expressed frustration to us over the level of service provided by their agreement with USOE, our review of reports and correspondence could find no evidence that USOR sought to alter the indirect cost agreement or request additional services until early 2014. USOE and USOR are currently in the process of studying this system to improve its accuracy and effectiveness.

USOR and USOE Internal Accounting Budget Mismanagement Impacted USOR's Federal Funds Authorizations

Poor information resulted in inconsistent federal funds authorizations.

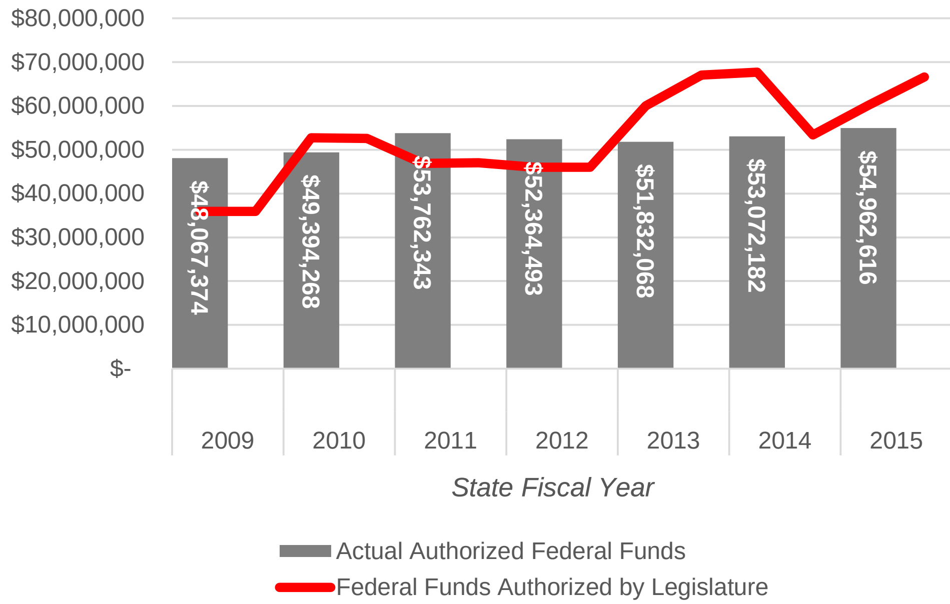
IA provided poor federal funds information on which the Legislature based their federal funds authorization. Because these federal funds estimates were so inaccurate, the Legislature's authorizations bore little resemblance to USOR's actual funding stream. USOR violated Utah's Federal Funds Procedure Act as a further consequence of these poor budget controls.

IA Provided the Legislature with Poor Federal Funds Information

The annual estimates of USOR's incoming federal funds clearly show a lack of necessary information and controls. For several years, USOE internal accounting submitted unfounded and inconsistent estimates to the Legislature on behalf of USOR, which caused the amounts of federal funding authorized by the Legislature to fluctuate greatly.

Each year, as part of the state budget process, state agencies submit federal funds request summary forms, which pass first through the Governor's Office of Management and Budget, then through the Office of the Legislative Fiscal Analyst (LFA). These requests should reflect agencies' best estimates of federal revenue for the upcoming year, and are used as the basis for the Legislature's subsequent authorization of federal revenue. Because the information submitted for USOR on these forms was poor, the resulting federal funds authorizations bore little resemblance to USOR's actual funding stream. Figure 2.5 illustrates this inconsistency.

Figure 2.5 The Legislature Authorized Federal Funds Based on Poor Information. In 2014, LFA recommended a $14.3 million correction to bring legislative authorizations in line with actual federal funding.



Source: Auditor generated
Note: The red line reflects multiple authorizations by the Legislature in a single year.

Figure 2.5 shows how dissimilar USOR's actual federal funding was to the amounts authorized by the Legislature. The gray bars show a relatively stable flow of federal funding from year to year, which should have enabled more accurate estimates of future funding. The red line should closely follow the gray bars. The obvious lack of consistency confirms that neither USOR nor USOE was benchmarking their estimates against actual federal funding.

USOR's actual federal funding bore little resemblance to the amounts authorized by the Legislature.

In SFY 2011 and 2012, for example, it can be seen that USOR's actual federal funding exceeded the Legislature's authorizations. This was due to USOE and USOR's failure to account for one-time federal awards in its funding estimates. Once LFA alerted USOR to this problem, the estimate was overcorrected, and the legislative authorization grew by over $21 million from SFY 2012 to 2013. The authorized amount was far above actual federal funding which, in fact, fell slightly. This error was later corrected by LFA and the Legislature with a $14.3 million supplemental reduction to USOR's federal budget in SFY 2014.

USOR's inaccurate federal fund estimates were due to poor methodology and calculation errors.

Regarding this significant overestimation, USOR reported to LFA that it was overcompensating for its prior low estimates. Additionally, USOR stated that the overestimation was due to its anticipation of one-time VR reallotment revenue. Considering that the gray bars from 2011-2015 in Figure 2.5 already reflect this one-time revenue, projecting additional revenue beyond that was a miscalculation or misrepresentation on the agency's part.

It may be appropriate to establish a statewide grant management system.

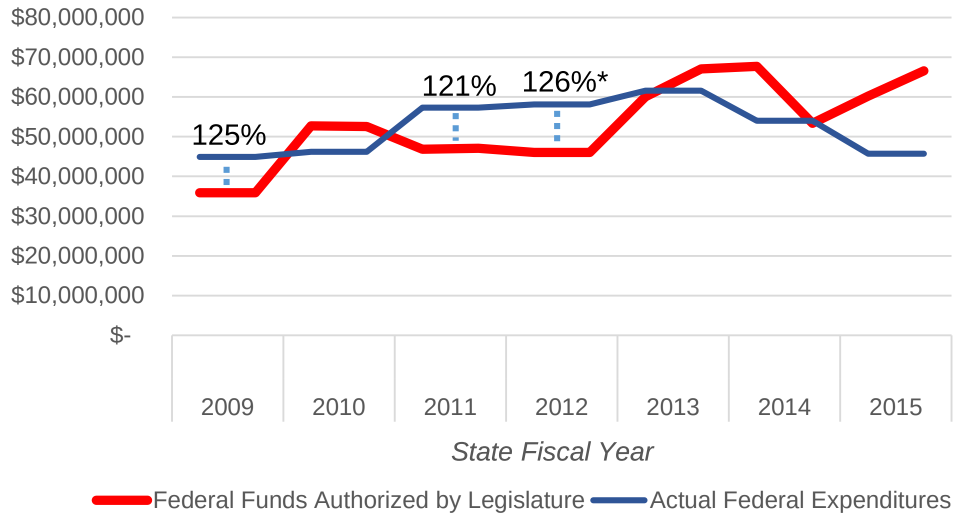
This scenario highlights a lack of accountability that exists in the state's federal funds approval process. Due to a lack of readily available data on federal grant awards and grant distribution, it is difficult for legislative budget staff to check estimates against actual federal funding. State agencies are relied upon to accurately estimate federal funding and it is assumed that they are doing so responsibly. USOR has shown how that trust can be exploited due to a lack of financial controls. For this reason, it may be appropriate for legislative budget staff and other stakeholders to establish a statewide grant management system in order to check estimates, analyze trends, and generally inform the state budget process.

USOR Violated Utah's Federal Funds Procedures Act

USOR's lack of budget controls also caused the agency to violate Utah's Federal Funds Procedures Act in SFY 2012. A portion of the act states that an agency may expend up to 25 percent more than the amount of federal funds approved by the Legislature, provided that doing so does not require the addition of permanent employees or new state money to match the funds.[14] Figure 2.6 shows the extent to which USOR spent above its authorized limits in 2009 and 2011 and how the agency's overspending violated the law in 2012.

[14] See ***Utah State Code*** 63J-5-205, passed during the 2011 General Session.

Figure 2.6 USOR Violated Utah's Federal Funds Procedures Act in 2012. USOR also spent significant amounts above its authorized federal revenue in 2009 and 2011.



Source: Auditor generated
**LFA originally reported this as 132 percent. See footnote 15 for more information.*

Figure 2.6 shows that USOR spent 126 percent[15] of its approved federal funds in 2012 without legislative approval, thus violating state law. Also, in order to spend beyond the authorized amount in 2012, USOR had to use new state money to match one-time federal dollars and hire additional permanent employees, further violating the code restrictions. The inconsistency between USOR's expenditures and the amounts authorized by the Legislature further illustrates that neither USOE nor USOR maintained sufficient oversight or control over USOR's federal funding stream.

USOR violated state budget law by overspending without Legislative approval.

Not only was USOR's grant management process ineffectual, but state code is silent on enforcement responsibility and consequences for violations of the law in question. These factors contributed to USOR's ability to spend federal revenue in an unsustainable way over several years without detection. A federal funds review process including formal penalties and clear enforcement authority and responsibility

Utah's federal funds approval process may benefit from clear enforcement authority and penalties.

[15] If ARRA funds are excluded from the calculation, the level of overexpenditure is 132 percent. This is the number LFA originally reported to the Social Services Appropriations Subcommittee during the 2013 General Session. Regardless, both amounts exceed the 125 percent limit.

could have worked in this instance to identify USOR's violations and inconsistencies and more quickly correct its problems.

The Legislature should consider establishing responsibility for the monitoring and enforcement of this act. Penalties for violation should also be established. This step, combined with the prior recommendation to improve federal revenue data, would provide better transparency and control in the state budget process.

USOR Could Have Potentially Avoided These Problems

USOR currently faces a federal penalty of approximately $5 to 6 million.

As the number of USOR clients increased and state funding decreased, USOR management could have made use of a client waiting list and sought relief from potential federal penalties instead of spending its budget in an unsustainable way. Instead, USOR is now facing a federal penalty of approximately $5 to 6 million.

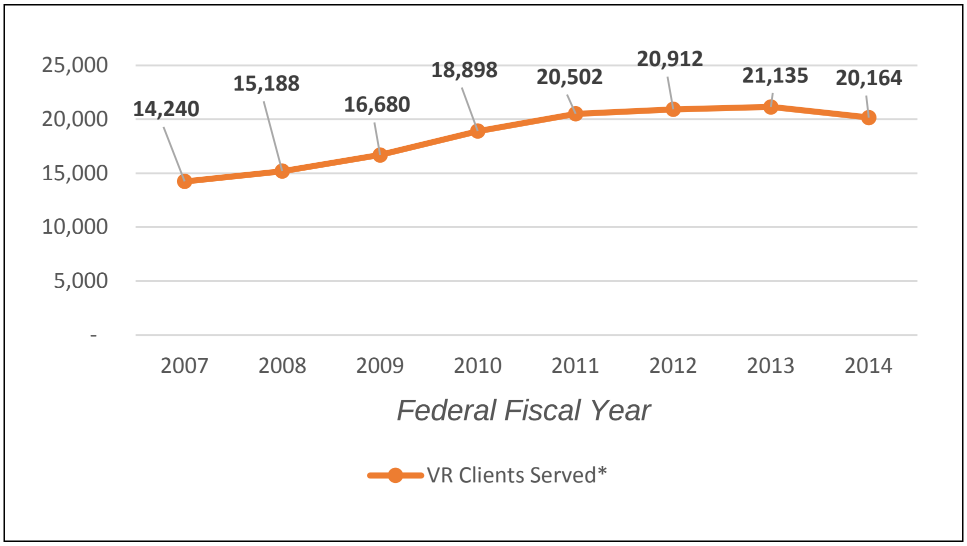
USOR Should Have Implemented A Waiting List for VR Services Earlier

A waiting list for VR clients may have been appropriate as early as 2009.

USOR allowed an overall increase in VR clients to increase the agency's cost of operations to an unsustainable level. In order to keep USOR's expenditures within the bounds of its revenue, state code and federal regulations give USOR management the ability and the obligation, with federal approval, to implement a prioritized waiting list[16] for VR applicants. Though USOR did implement a waiting list in 2015, experts stated that a VR waiting list at USOR may have been appropriate as early as 2009. Figure 2.7 shows the number of VR clients served by USOR from 2007-2014.

[16] This is known formally as an 'order of selection' because a state must describe the order in which clients will be served based on the significance of their disability.

Figure 2.7 The Number of VR Clients Grew from 2007-2013. USOR officials cited a weak job market during the recession as the primary cause of this increase.



Source: RSA, USOR
**These VR client numbers differ from those reported by USOR in the past. The numbers here reflect a more accurate picture of clients who were receiving services as opposed to the full body of VR applicants, a portion of whom were found ineligible for services.*

Despite the growth in clients shown in Figure 2.7 and the corresponding strain placed on the budget, USOR management was fundamentally opposed to the idea of a waiting list and refused to implement one. Even though the effects of the budget strain and poor financial management began to emerge in 2013, a waiting list was avoided until early 2015. In contrast, according to a representative from RSA, many states make use of waiting lists by necessity; doing so is not seen in any sort of negative light.

USOR management was fundamentally opposed to a VR client waiting list.

Though the desire to serve all clients reflects good intentions on the part of USOR management, the decision to do so despite a lack of adequate, ongoing revenue created a situation in which the long-term health of the organization was placed at risk. We believe that USOR could have avoided a large portion of its current financial difficulties had management implemented a waiting list sooner than they ultimately did.

USOR could have avoided most of its financial difficulties with a VR client waiting list.

USOR Overspending May Result In a Maintenance of Effort Penalty

Because USOR irresponsibly spent such a large portion of both SFY 2013 and 2014 funds on its 2013 VR grant, it now faces a potentially large maintenance of effort[17] penalty in the coming federal fiscal year. The current estimate for this penalty is approximately $5 to 6 million though this is contingent on the final maintenance of effort amount at the close of FFY 2015.

Because of excessive spending, USOR faces a potential $5 to 6 million federal penalty.

Amid concerns of such a penalty as early as SFY 2009, USOR management reported to an advisory council that an application for a penalty waiver had been submitted to RSA. We found no similar report or discussion with the Board. However, conversations with USOR and RSA staff confirm that an application was never formally submitted because USOR believed it had found means to avoid the penalty. It is unlikely that RSA will grant a waiver for the current penalty.

Recommendations

1. We recommend that the Utah State Office of Rehabilitation, the Utah State Office of Education, and the Utah State Board of Education create policy to guide development of the annual federal revenue estimates that are submitted to the Legislature as part of the budget process.

2. We recommend that the Legislature work with the Office of the Legislative Fiscal Analyst and other stakeholders to establish a statewide grant management system.

3. We recommend the Legislature consider assigning responsibility for the monitoring and enforcement of the Federal Funds Procedures Act in Utah Code. A penalty for violation should also be considered.

4. We recommend that the Utah State Office of Rehabilitation, the Utah State Office of Education, and the Utah State Board of Education develop in policy a systematic, ongoing process of budget creation and monitoring including communication of budget information to key governance, oversight, and management members. We further recommend that the Utah

[17] The maintenance of effort for the VR grant requires a program to spend the same amount of non-federal funds in a given year as it did two years prior. If not, the program is penalized dollar-for-dollar from its subsequent VR grant.

State Office of Rehabilitation ensure that all reported communication be accurate and complete.

5. We recommend that the Utah State Office of Rehabilitation, the Utah State Office of Education, and the Utah State Board of Education continually evaluate the appropriate level of financial skills and support needed to adequately manage its budget and work to build its staff accordingly.

6. We recommend that the Utah State Office of Rehabilitation, the Utah State Office of Education, and the Utah State Board of Education create policy in line with federal regulation that requires regular, documented analysis of trends, forecasts, revenue, and need for an order of selection.

Chapter III
Weak Oversight and Communication Prolonged and Worsened Financial Problems

The Utah State Board of Education (USBE or the Board) and the Utah State Office of Education (USOE)[18] did not provide sufficient governance or oversight of the Utah State Office of Rehabilitation (USOR), which prolonged and worsened their financial problems. Oversight and communication did not function in a way to prevent, detect, or address USOR's budgetary issues, with USBE being informed of the problems at least five years after they were anticipated. USBE did not provide governance of USOR. In addition, USOE failed to provide management oversight of USOR to prevent budgetary issues.

Although this chapter focuses mainly on shortfalls of USBE and USOE, it is not meant to ignore USOR's culpability, which was addressed at length in Chapter II.

Nonfunctioning Oversight and Poor Communication Aggravated Financial Problems

Lack of communication between USBE, USOE, and USOR prolonged the organization's financial problems. A fundamental breakdown in oversight and communication among USBE, USOE, and USOR delayed the discovery of the budget problems reported in Chapter II. This delay allowed USOR's financial health to decline further than it would have had the problems been identified earlier. These issues were due to governance and management functions and interactions that were not clearly detailed in policy.

USBE and USOE did not develop clear policies to guide the governance and management of USOR.

[18] When this chapter discusses USOE, it is primarily referring to the superintendency, or executive team of the superintendent.

Governance and Management Oversight Defined by Utah Code

Utah State Code **clearly identifies that governance and oversight of USOR is the responsibility of USBE and the superintendent.**

The ***Utah State Code*** clearly identifies that governance and oversight of USOR are the specific responsibility of USBE and its superintendency. As authors of state code, the Legislature gives authority and purpose for USBE, the superintendent, and USOR. The lack of clear governance and oversight by USBE and the superintendent led to delayed action in identifying and addressing USOR's budget issues. USBE and USOE did not develop clear policies to guide their governance and management oversight of USOR. Figure 3.1 details how both statute and standards defines each body's oversight role.

Figure 3.1 Roles for USBE, the Superintendent, and USOR are Defined by Statute and Standards.

Entity	Role	Performance of Role	Utah State Code
USBE	Governance	"Responsible for overseeing the strategic direction of the entity and obligations related to the accountability of the entity."[1]	"There is created the Utah State Office of Rehabilitation under the **policy direction** of the State Board of Education…" [3]
Superintendent (USOE)	Oversight	"Sets strategic direction (under the [direction] of the board) and establishes an entity's value system. Provides assurance that risks are managed as part of a risk management process, operations are monitored, results are measured, and corrective actions are implemented in a timely manner."[2]	USOR is: "… under the **direct and general supervision** of the superintendent of public institution." [3]
USOR Director	Management	"Deploys strategy, enforces internal control, and provides direct supervision for areas under its control. Is accountable to executive management, and ultimately to the board, for implementing and monitoring the risk management process and establishing effective and appropriate internal control systems."[2]	"The [USOR] director shall **administer** the office in accordance with the direction of the executive officer of the board, policies of the board, and applicable state and federal laws and regulations." [4]

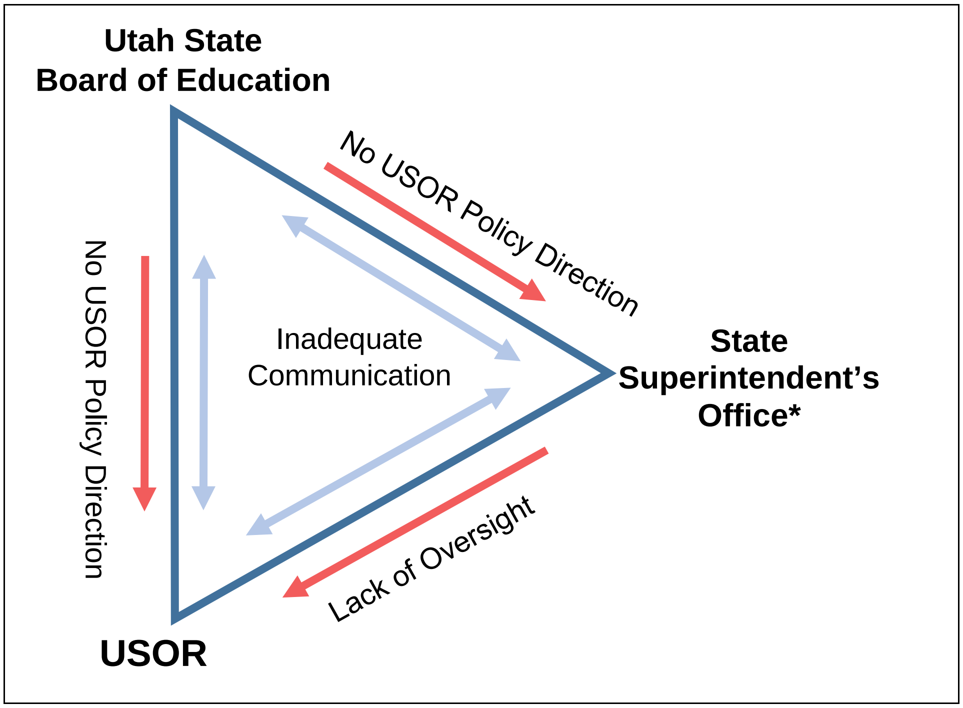
Sources – *1 Government Accountability Office*
2 Institute of Internal Auditors
3 ***Utah State Code*** *53A-24-103(1)*
4 ***Utah State Code*** *53A-24-104(2)*

Oversight and the defined roles described in Figure 3.1 were absent from the decisions that led to USOR's budget deficit. USBE should have created a culture of good governance and policy to direct and monitor USOR. USOE should have ensured that the policy and direction set by USBE were followed. However, USOE failed to provide appropriate oversight of USOR. USBE did not ensure USOE was properly overseeing USOR, and there was no policy ensuring these duties would be performed. Adding to these failings was a lack of communicated feedback between the organizations.

USOR leadership failed to adequately manage and control the organization.

In addition to USBE's and USOE's failures, we found that USOR also failed to adequately manage and control the organization, which led to inadequate identification and communication of problems. Figure 3.2 illustrates the lack of adequate policy direction, oversight, and communication among parties within USOE.

Figure 3.2 Lines of Oversight and Communication Among the Three Organizations Did Not Function.



Source: Auditor generated
**This includes, by extension, all areas of USOE with responsibility to support USOR. Namely, USOE Internal Accounting due to that office's pivotal role in financial management.*

As shown in Figure 3.2, USBE should provide policy direction to USOE and USOR, who would then execute that policy. To ensure that the policy and direction are followed, communication is crucial. According to state code, USOR should be reporting to the state superintendent, who, in turn, should report to the USBE. This reporting should include any concerns or future risks USOR might encounter.

There is no clear written policy detailing interaction between USBE, USOE, and USOR.

There is no clear written department policy detailing interaction between USBE, USOE, and USOR, which allowed reporting and communication to function improperly. A review of USBE bylaws, policies, and training material show no clear guidance on the role of USBE and interaction with USOR. USOE staff could also find no guiding governance documents. Without a written and enforced policy it will be difficult to prevent future oversight issues.

In addition, USBE's own internal auditors noted a risk due to this lack of guidance, recommending that "governance policies and procedures outlining expectations, reporting lines, etc. would help mitigate this risk." We agree that not only governance, but also lines of communication should be defined and strengthened.

USOE internal accounting did not provide a sufficient level of support to USOR, but USOR raised no complaint.

Communication of Budget Issues Was Detrimentally Delayed

The delay in USBE and USOE receiving information on USOR's budget issues confirms there were problems with the lines of communication. USOR did not communicate concerns to USOE or the Board. The cycle of poor information only added to the budgetary issues at USOR. As stated by the Institute of Internal Auditors (IIA), "breakdowns in communication are often the root cause of control deficiencies." These control deficiencies at USOR led to financial problems.

Budget concerns were not communicated to USOE or USBE until the problem was out of control.

USOR and USOE Internal Accounting Failed to Communicate Problems and Financial Decisions to USBE and USOE. Due in part to poor lines of communication, as well as a misunderstanding of budget issues, neither USOR nor USOE internal accounting (IA) reported budget concerns to the superintendency or the Board until they had spiraled out of control. Concerns with decreasing state budgets and the increasing inability to meet federal maintenance of effort (MOE)[19] requirements date back to October 2008; however these concerns were only expressed to a USOR (or VR) advisory council. The funding shortage appears to be first communicated to USBE and USOE in October 2013. After that point, a lack of sufficient detail and overly optimistic reports by USOR and USOE further delayed solutions.[20]

The lack of financial understanding may, in part, be due to poor support from IA. However, despite USOR complaining at length to us about a lack of adequate support from IA, we could find no evidence that USOR ever made a good faith effort to bring this

[19] MOE requirements prohibit the state from reducing nonfederal expenditure from year to year or suffer a penalty assessed on a subsequent federal award.

[20] This is also discussed in detail in Chapter II.

problem to the superintendent or USBE until it became a discussion topic in 2014. Budget issues were made worse by the inability of USOR to clearly articulate the causes and extent of the issue.

It appears that the superintendency was unaware that financial support for USOR was inadequate and was largely unaware of developing budget issues at USOR, nullifying its ability to appropriately inform the Board. Neither USOE (mainly IA), nor USOR accurately communicated budgets and budget issues. In turn, we found no evidence USBE was directly notified of budget concerns until October 2013.

USOR did not communicate possible budget management strategies to the Board.

In addition, it appears USOR did not communicate options and strategies for dealing with the budget shortages to the Board until late 2014. USOR did not inform the Board of two prevention strategies in a timely fashion: specifically, order of selection[21] and the use of federal one-time money. Importantly, if the superintendent or Board would have been made aware of the nature of USOR's financial activities, the current problem could have potentially been less severe. Given the lack of oversight and poor communication described above, we believe that if even one party within this system would have raised any level of concern earlier, it would have sparked a more timely corrective action.

USBE Failed to Provide an Appropriate Level of Governance of USOR

We believe that USBE overlooked its USOR governance responsibilities due to its significant education focus, thus giving inadequate support or attention. In addition, USOR did not have a necessary or appropriate level of interaction with the Board. This lack of attention on USOR allowed it to function essentially without oversight. Since USOR's budget issues came to its attention in 2013, USBE has taken steps to provide more oversight and better define each entity's role.

[21] Order of Selection (OOS) is a waitlist to be enacted when a program does not have sufficient resources to serve all clients. OOS prioritizes clients by the significance of their disability.

USBE Overlooked USOR Governance Responsibilities

Although USOR is under the policy direction of USBE, the Board provided little governance. ***Utah State Code*** 53A-1[22] details a list of the Board's education duties, but does not directly mention USOR. The specific role USBE has over USOR is not mentioned in Title 53A until 53A-24, which is page 448 of 487. We recommend that if USOR remains under USBE's governance, USOR should be mentioned specifically in 53A-1 so they are reflected in the administrative section of the Public Education Code, thus emphasizing the Board's governance responsibility. Though statute is clear on USOR's placement within USOE, state code places a clear focus on the Board's education-related duties and responsibilities. The lack of emphasis on USOR is also reflected in the Board's bylaws, administrative rules, and the strategic plan of both USOE and USBE.

USBE members have said they were not aware USOR was under Board oversight when they were running for the position.

Members of the Board have said they were not aware USOR was under Board oversight when they were running for the position. This illustrates Board members' lack of interest in governing rehabilitation, contributing to a disregard for their governance over USOR and lack of Board directives to ensure USOE fulfilled its supervisory role over USOR.

Additionally, a member of the Board, not speaking for the Board, said in the October 15, 2014 Health and Human Services Subcommittee meeting in regard to USOR, "the state Board is not getting around to providing oversight for policy, for finance, the way I think that a Board needs to do." A review of USBE's strategic plan and 2015 legislative plan distributed to legislators also shows no mention of rehabilitation or USOR.

USBE should make changes in their organizational structure to ensure that USOR is a more prominent entity within the organization. Illustrating this, USOR has had:

- Limited interactions and communication with the superintendency and USBE
- No access to USOE intranet, due to a firewall limiting USOR's access to available policies and procedures, and a webxtender

[22] Title 53A governs the state system of public education.

allowing them to see some client information and the underlying transactions behind their budget

- No prominent display of USOR on USOE's website[23]

Further indicating the lack of interest in USOR, USBE did not utilize their internal auditor to ensure compliance at USOR. Internal auditors were asked by the Board to focus on education entities.

USBE has taken steps to provide more oversight and to better define each entities roles.

Since USOR's budget issues came to its attention in 2013, USBE has taken steps to provide more oversight and better define each entity's role. In 2014, the Board hired an internal auditor to provide audits and risk analysis of USOR. In addition, USBE changed administrative rules governing internal audits, specifically naming USOR as an audit item. The Board has also clarified budget reporting expectations in Board bylaws and have given more attention to USOR's finances in Board committee meetings. In fact, since early 2014, a great deal of time in both the finance and audit committees has been spent on USOR.

USOR Did Not Have a Sufficient Level of Interaction with USBE

USOR only presented 7 times in 97 full Board meetings between 2009 and 2014

USOR had very limited time before the full USBE. Board meetings are held nearly every month. In these meeting the focus was on public education and education policies. From 2009 to 2014 USOR presented to the full Board in 7 of the 97 meetings, even though a USOR representative was present at nearly 70 percent of the full Board meetings. USOR's 7 presentations averaged less than 13 minutes and focused on how USOR fit under the Board and the successes of the program rather than budget and financial concerns. USOR was not assigned to a specific Board committee[24] where they could have more time with Board member to discuss specific issues. However, each year the Board approved USOR and the Independent Living Center's state plan, approved new member of the State Rehabilitation Council, fiscal year budgets, and received monthly

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[23] A link to USOR's website can be accessed from USOE's website under "partner links" and "contact."

[24] Currently, USBE has five committees to discuss issues in more detail. These committees are the executive committee, audit committee, finance committee, standards and assessment committee, and law and licensing committee.

budget reports from IA on behalf of USOR.[25] Most of these items fell on the consent calendar where little discussion was given.

It is unclear to what extent USOR's finances were discussed in finance and audit committees prior to 2012. However, since the finance committee did not raise concerns to the full Board it is likely USOR's budgets were not discussed in detail. In theory, USOR budget concerns should have been discussed in depth in finance committee meetings and if concerns were raised in the finance committee those concerns would then be brought to the full Board, of which we find no evidence until late 2013. We were able to determine that the limited budget information reported to the Board was often incorrect, which further limited USBE's ability to effectively oversee USOR's budget.[25]

We found no evidence USOR's budget concerns were brought to the full board until late 2013.

Prior to 2002, USOR was under the now defunct State Board for Applied Technology. This board was comprised of the members of USBE, but focused on USOR and applied technologies. In addition, the board established a committee for Applied Technology and Rehabilitation. A previous director of USOR said that this board gave USOR more attention. However, when the Utah College of Applied Technology was removed from under USOE, the State Board for Applied Technology was also removed, after which USOR fell under USBE.

Due to the lack of support from USBE, on June 6, 2014 USOR proposed four recommendations to the Board audit committee to improve the level of interaction with USBE:

1. A member of USBE should serve on the State Rehabilitation Council and report back quarterly to the Board.

2. USOR should be assigned to a committee to give quarterly updates.

3. USBE should establish a committee overseeing USOR and Utah Schools for the Deaf and Blind.

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[25] The inaccuracies of the monthly financial reporting to the Board are discussed at length in Chapter II.

4. The full Board should oversee USOR.

USBE should develop clear processes and structures to provide accountability and ensure oversight of USOR.

While we agree that these unimplemented recommendations and some additional steps taken by USBE could improve the oversight function of USOR, there is still more that must be done to ensure proper oversight. A clear, written management policy must be formulated. There should be clear processes and structures implemented in order to provide accountability and ensure oversight of USOR. The lack of policy over such governance is concerning and needs to be improved.

USOE Failed to Provide Oversight of USOR

USOE overlooked its responsibility to provide oversight of USOR. This responsibility included developing controls and monitoring USOR's finances. In addition, USOE did not ensure that USOR was receiving proper support. Since USOR's financial issues came to light, the new state superintendent has aggressively addressed these issues.

The Superintendency Did Not Adequately Monitor USOR's Finances

Utah State Code **requires the state superintendent to provide "direction and general supervision" to USOR.**

The State Office of Rehabilitation Act in ***Utah State Code*** requires the state superintendent to provide "direction and general supervision" to USOR. The specific duties and responsibilities of the superintendent listed in code, make no mention of USOR. Rather, the state superintendent's individual job description mandates he regularly review the budget. However, there is little evidence or documentation of the involvement of the superintendency in USOR. For example, USOR's executive director was never present at or invited to USOE executive team meetings.

Supporting this assertion, the current state superintendent[26] said at the February 4, 2015, meeting of the Social Services Appropriations Subcommittee that USOR's current problems were due to a leadership failure. He also said that there was a lack of clear communication to the state Board or superintendent. The

[26] See Appendix A for the tenure of the current superintendent and other related managers, with a timeline of significant events.

superintendent added there is fault in the state superintendency in oversight and a failure at the state Board level regarding governance.

In response to these concerns, the new state superintendent has taken steps to ensure his office is properly managing USOR. These steps include weekly meetings with the USOR director and monthly budget reviews. A new associate superintendent over administration and business was hired and will oversee internal accounting. Finally, a new director has been hired for USOR.

The superintendent has taken steps to ensure proper management of USOR.

The Superintendency Did Not Ensure Proper Support of USOR

The superintendency failed to ensure that IA provides adequate financial support to USOR. IA should have managed USOR's budget and advised executives and managers of spending and fiscal issues. In the job description for IA staff, the IA director is required to "advise [the superintendent] and managers of fiscal problems and present alternatives to minimize impact of revenue cutbacks and shortfalls." This was not being done properly. IA staff were not adequately reviewing budgets, expenditures, and budget forecasts. If IA had been more involved, they could have informed the proper management personnel.

USOE failed to ensure USOR receive proper financial support.

IA failed to fulfill their responsibilities and failed to inform the superintendent of USOR's fiscal issues. If the superintendency had processes in place to oversee USOR's budget and activities, and ensure that IA provided the superintendency with timely, accurate information, these issues would likely have been brought to light prior to USOR falling short of funds.

In response to the lack of financial support, USOE is currently in the process of hiring a new director of internal accounting. USOR and USOE are also working on a memorandum of understanding to clearly state what will be expected from each party. Although these steps will help the current situation, clear policies and expectations still need to be created in order to prevent breakdown if or when the current leadership of USOE and USOR change.

Recommendations

1. We recommend that the Utah State Office of Education and the Utah State Office of Rehabilitation determine ways to ensure that lines of communication remain open and structured such that decision makers are apprised of pivotal program and budget activities.

2. We recommend that the Utah State Board of Education and the state superintendent clearly define their roles as to governance and oversight in policy.

3. We recommend that the Utah State Office of Rehabilitation, under the policy direction of the Utah State Board of Education, create policy detailing the following:

   - Key process steps
   - Performance and financial metrics
   - Controls
   - A monitoring schedule for its interaction with its oversight body

4. We recommend that the Utah State Office of Education consider modifying their organizational structure to ensure that the Utah State Office of Rehabilitation is given a more prominent position (e.g. organizational chart, Board meetings, intranet, etc.).

5. We recommend that if the Utah State Office of Rehabilitation remains under the oversight of the Utah State Board of Education, ***Utah State Code*** should be amended to reflect the needed priority the Utah State Board of Education should place on the Utah State Office of Rehabilitation.

Chapter IV
USOR's Mission Would Be Better Served Elsewhere in State Government

The Utah State Office of Rehabilitation (USOR) would be best served by moving it elsewhere in state government. Its current placement under the Utah State Board of Education (USBE or Board) within the Utah State Office of Education (USOE) lacks aligned missions, which leads to concerns about governance and oversight. The Department of Workforce Services (DWS) appears to be the most closely aligned location, with overlapping missions and clientele.

Past reports, studies, and national trends also support rehabilitation providers, like USOR, being housed under a labor agency. While concerns about moving USOR continue to be an issue, these concerns can be addressed. If the Legislature decides that DWS is not the best place for USOR, there are other options for USOR placement.

USOE Is Not the Best Location for USOR

USOE should not be the oversight body for USOR. USOE's educational focus and USOR's broader employment-based focus do not align. Because of these disparate missions, it is possible that USOR may not receive sufficient oversight without a change in governance. In addition, a comparison of programs similar to USOR in other states shows that rehabilitation programs are seldom governed by a state educational entity.

USOR should not remain under USOE's oversight.

USOR Is Not an Education Program

USOR is, at its core, an employment entity. While there are many other essential roles played by USOR vocational rehabilitation (VR) counselors, the program's end goal is employment. In fact, the State Office of Rehabilitation Act in ***Utah State Code*** has a section entitled "Employment first emphasis on the provision of services." Figure 4.1 shows provisions of this section.

Figure 4.1 State Code Requires that Priority Be Given to Assisting Clients in Gaining Employment. A plan must be established to carry out this priority.

Utah State Code **53A-24-106.5**
(1) When providing services to a person with a disability under this chapter, the office shall, within funds appropriated by the Legislature and in accordance with the requirements of federal and state law, give priority to providing services that assist the person in obtaining and retaining meaningful and gainful employment that enables the person to: (a) Purchase goods and services; (b) Establish self-sufficiency; and (c) Exercise economic control of the person's life. (2) The office shall develop a written plan to implement the policy described in Subsection (1).

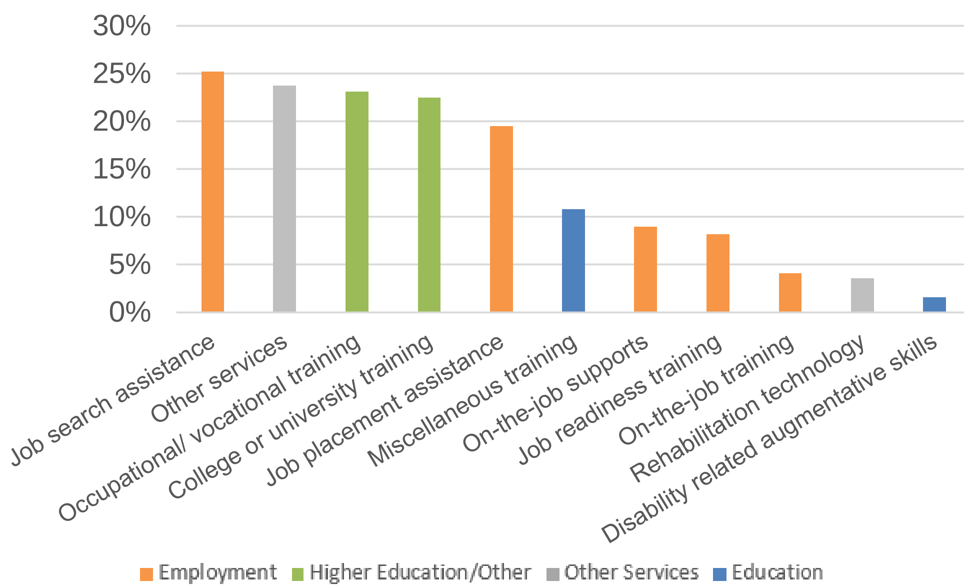
Source: ***Utah State Code***

Employment is USOR's statutory priority.

Figure 4.1 shows that education is neither USOR's ultimate goal nor primary priority. Instead, the goal is employment. Supporting this goal, USOR's core operations and metrics as reported to the federal government and the Utah Legislature center on employment.

Figure 4.2 shows the distribution of services provided to clients by USOR. The majority of services provided to USOR clients are employment related.

Figure 4.2 Majority of Client Services are Employment Related.



Source: Rehabilitation Services Administration Federal Fiscal Year 2009-2013
Note: Miscellaneous training includes GED or high school training leading to a diploma. Disability related augmentative skills training includes rehabilitation teaching; training in the use of low vision aids; Braille; speech reading; sign language; and cognitive training/retraining. Clients can receive multiple services

As Figure 4.2 shows, there are two categories related to public education (shown in blue). Only the "miscellaneous training" category, with approximately 11 percent usage, focuses on helping clients finish high school or obtain their GED, a goal which is still employment directed. It is clear that a majority of the services offered by USOR are focused on employment.

The majority of services offered by USOR are employment focused.

USOR works with public education to prepare students with disabilities for employment. USOR serves an estimated 3,721 clients who are potentially students[27] each year, approximately 12 percent of their total clientele. An argument has been made that because it is overseen by USOE, USOR has agreements with each school district that makes serving student clients easier. Moving USOR from USOE would not make these agreements go away, just as not being governed by DWS has not negated similar agreements between DWS and USOR.

Additionally, a significant part of USOR's education-focus lies with institutions of higher education. In federal fiscal year 2014, 23 percent (approximately $4.4 million) of USOR's total VR expenditures went toward higher education degree programs. We feel that, similar to its current relationship with public education, combining USOR with higher education would be incongruous because no other strategic mission alignment exists.

Higher education also represents a significant USOR expense.

USOR's Mission Is Not a Significant Focus of USOE's Responsibilities

As mentioned in Chapter III, the primary focus of USBE and the superintendent is public education in the state of Utah. As a result, USOR failed to receive the necessary oversight and management, causing a budget deficit and on-going financial difficulties. USOR should not stay within USOE for the following reasons:

- USBE voted to recommend USOR move to another entity
- USBE has no rehabilitation representation

[27] This number is estimated based on USOR clients age 21 and younger. Although students are traditionally defined as 18 and younger, the Individuals with Disabilities Education Act allows for the age to increase to 21 for students with disabilities. There are 881 student clients age 18 or younger. Because it is unclear how many of the approximately 3,000 clients from 18 to 21 are actually students, 3,721 is a conservative estimate.

- USOR budget could get lost in USOE's large budget

The Board voted to recommend that USOR not remain under its governance.

The Board Recommended Moving USOR. Since early 2014, USBE has studied the governance of USOR. In a June 2015 Board meeting, USBE recommended that USOR not remain under its governance. Specifically, the minutes state that:

> USOR is not best served by a Board that is primarily elected to serve another entity, but that the Board will continue to fully support USOR while a decision is being finalized.

If the Board is not interested in USOR remaining under their governance, it will be difficult for the Board to maintain focus on USOR.

No rehabilitation members are on the Board or advise the Board.

The Board Structure Does Not Have Any Rehabilitation Representation. The makeup of USBE and their focus and objectives may lead them to again lose focus on USOR. The current Board structure consists of 15 elected voting members who receive quarterly recommendations from four advisory members of related boards.[28] None of these advisors represents the disabled community. A member of the Board in the February 4, 2015 Social Services Appropriations Committee Meeting stated "that no state Board member runs for the State Board of Education thinking that they are going to be managing the State Office of Rehabilitation."

Education's Budget Is Significantly Larger than USOR's. USBE annually oversees spending of $4 billion for public education. Although a majority of this money is passed through to school districts and charter schools, it is still the Board's responsibility to ensure it is distributed correctly and used appropriately. Figure 4.3 shows the allocated budgets of the potential oversight bodies for fiscal year 2016 and what percentage USOR would make of the respective total budget.

[28] Two advisors are appointed from members of the Board of Regents, one from the Utah College of Applied Technology, one from the State Charter School Board.

Figure 4.3 USOR Is a Small Percentage of Public Education's Total Budget (FY 2015). In comparison, it would be a larger portion of both DWS and DHS.

Agency	Total Budget	USOR's Budget as a % of the Agency
USOR	**$ 81,403,800**	**-**
Public education[29]	4,289,118,800	1.9%
DWS	968,602,100	7.8
DHS	688,889,900	10.6

Source: Legislative Fiscal Analyst state fiscal year 2016 appropriation
Public Education funds are appropriated to the State Board of Education. The large percentage of this money goes to school districts and charter schools through the Minimum School Program.

As shown in the chart above, public education oversees the largest budget compared to other agencies with clientele similar to USOR.[30] USOR constitutes a mere two percent of the budget overseen by the Board. DWS is the second largest and USOR would make up nearly 8 percent of its budget if they were added to DWS. The Department of Human Services (DHS) has a smaller budget at nearly $690 million. The size differential between a $4.3 billion educational budget and the $81 million USOR budget is concerning. We believe that USOR could easily be a lost priority once immediate issues are resolved.

Public education is by far the largest comparative budget.

Nationwide, Education Is Least Frequent Oversight Body

There are 27 states,[31] including Utah, whose rehabilitation agencies are combined agencies.[32] When comparing agency placement in state government, we found that education was the least used governance structure, as seen in Figure 4.4.

[29] Public Education Budget includes Minimum School Program, School Building Programs, and State Board of Education.
[30] USBE's budget, not including dollars passed through to school districts, is $657,944,700.
[31] This includes the District of Columbia.
[32] States can have an agency over blind and visually impaired services and a separate agency over general vocational rehabilitation, or states can combine functions in one agency, similar to Utah.

Figure 4.4 Education Is Least Frequent Oversight Body Among Other States. Human and Social Services Departments House the Most Rehabilitation Agencies.

Department	Percentage of Combined Agencies	Count
Human/Social Services	37%	10
Labor/Workforce	26%	7
Independent	22%	6
Education	15%	4

Source: Rehabilitation Services Administration

Only three other states govern rehabilitation under education.

Only four rehabilitation entities, including Utah, are located under an education agency. More commonly, vocational rehabilitation programs are located under a human or social services agency. Utah's DWS is a hybrid of social services, labor, and workforce development.

Though it is not a commonly used governance structure, VR programs under education agencies have better-reported employment rates. In 2013, programs overseen by education agencies had an employment rate of 59.8 percent compared to social and human service agencies at 54.2 percent, labor agencies at 49 percent, and independent agencies at 48.4 percent. However, we do not have sufficient information to determine why the four states have higher rates.

DWS Appears to Be the Most Likely Candidate for USOR Placement

There is significant potential for alignment between USOR and DWS.

Our analysis shows significant potential for alignment between USOR and DWS. First, they have significant mission and clientele overlap. Second, the Office of the Legislative Auditor General (OLAG) and Legislative Fiscal Analyst (LFA) have made recommendations in the past to combine USOR to DWS. Third, at least one other state is moving rehabilitation under its labor department in response to federal changes and budget problems similar to those at USOR discussed in this report. DWS points out that they enjoy a "long-standing partnership with USOR," and are willing to actively partner with USOR.

USOR's and DWS' Missions and Clientele Have Significant Overlap

USOR and DWS appear to be very similar agencies when comparing clientele and missions. Both mission statements focus on employing their clientele. In addition, there is a significant overlap in the individuals USOR and DWS serve. This supports the assertion that USOR would be a good fit within DWS.

USOR and DWS Mission Statements Focus on Employment. USOR's mission aligns more closely with DWS than any other department in the state. DWS' mission is "connecting job seekers to Utah jobs," while USOR's mission is "to assist individuals with disabilities to prepare for and obtain employment and increase their independence." The major focus of these two agencies is to help their clients gain employment. USOR's clients may have additional steps and efforts because of their specific clientele needs, but at its core, the ultimate goal is employment.[33]

Both USOR's and DWS' mission statements focus on employment.

A Majority of USOR and DWS Clientele Overlap. We reviewed the clientele served by both DWS and USOR and found a significant overlap. Seventy-one percent of USOR clients also receive services from DWS. As previously mentioned, only 12 percent of USOR's clientele are student-aged, and would potentially be served by USOE. Clearly, a much larger percentage of USOR's clientele overlap with DWS than with USOE.

Seventy-one percent of USOR clients receive services from DWS.

Legislative Staff Have Previously Recommended USOR and DWS Be Combined

In two prior audits, OLAG recommended USOR be moved to DWS. Audits released by OLAG in 1992 and again in 2000 advocated the consolidation of USOR with DWS due to their clear service overlap.[34] The recommendation in the 2000 audit report reads, "We recommend that the Office of Rehabilitation be made into a separate division within the Department of Workforce Services."

A 2000 OLAG audit recommended USOR be a separate division within DWS.

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[33] Not all of USOR's divisions focus on employment. Rehabilitation Services and the Division for the Blind and Visually Impaired are predominantly employment focused, while the Disability Determination Services and Division of Services for the Deaf and Hard of Hearing have other focuses. All divisions are not required to be under the same departmental governance.

[34] Appendix B contains the applicable section of the 2000 audit.

In addition, the 1992 audit cited a report issued in 1979 by the Committee on Executive Reorganization which, with input from the Legislative Auditor General, advocated that USOR be consolidated with state employment programs. The report cites USOR's clear employment mandate and the inappropriateness of insulating a direct services program from executive branch oversight by housing it under the State Board of Education.

Additionally, in recent years USOR was moved from the Education Appropriations Committee to the Social Services Appropriations Committee. DWS, DHS, and Department of Health are overseen by the same appropriations committee as USOR. This move was made to align similar agencies into the same appropriations committee.

In 2009, LFA recommended moving a function of DWS to USOR because their mission statements align.

The Legislative Fiscal Analyst (LFA) also recommended in a 2009 interim report that "the Legislature consider transferring the [DWS-run General Assistance Program] from DWS to USOR]. The General Assistance Program helps adults achieve economic independence. The report concludes that "USOR . . . has a mission statement that is directly aligned with assisting the same population."

Colorado Rehabilitation Agency Is Moving to Labor

On May 8, 2015, the Colorado governor signed a bill to transfer its Division of Vocational Rehabilitation (DVR) to Colorado's Department of Labor and Employment (Labor). The press release on the signing gave two main reasons for the move: (1) to better respond to Workforce Innovation and Opportunity Act (WIOA) mandates, and (2) to support the governor's employment initiatives.

Colorado cites WIOA as a reason they are moving rehabilitation to their labor agency.

While Colorado cites WIOA alignment as one rationale for moving DVR to Labor, USOR cites the same federal legislation as evidence to remain with USOE. Although federal WIOA regulations have not yet been released, USOR has asserted that the legislation moves rehabilitation closer to education. Colorado officials seem to disagree. Colorado's interim DVR director cited better WIOA alignment as their primary reason for the move to Labor, further stating that the services they provide, even when they are used in the funding of education needs, are still focused on the end goal of employment.

In 2013, Colorado's DVR experienced a significant increase in spending much like USOR did, precipitating a request for a $5.5 million supplemental appropriation. In its performance audit of DVR, Colorado's Office of the State Auditor stated that "the division does not have sufficient policies, procedures, and oversight to manage its financial resources and ensure its expenditures are within available resources." Perhaps as a result of such troubles, the DVR interim director shared one additional reason for the move to Labor – that the division needs a fresher perspective.

Colorado had a similar financial shortfall.

DWS Sees An Overlap of Missions

When consulted about the possibility of USOR being combined with their department, DWS management pointed out a number of existing partnerships and overlapping services.[35] When discussing missions, they state "Our missions align where training and/or job readiness activities lead to employment for our customers."

DWS sees mission alignment where activities lead to employment of customers.

While they do point out some concerns and areas where they feel divisions of USOR may not be an obvious overlap, they state

> DWS will be an active and willing partner in any request to explore additional oversight duties. We respect and appreciate the opportunity to administer these types of government services. We are a caring and service-oriented department that takes great pride in serving the citizens of Utah.

Stakeholder Concerns Exist

Various stakeholders, including USOR, client groups, advisory councils, and individual citizens have historically expressed concerns with moving USOR from USBE's governance. These fears could be addressed. If a move is undertaken, federal regulations require public meetings and consultations with stakeholders to address concerns.

Stakeholders Have Advocated Remaining at USOE

USOR management and interested client groups have long resisted moving the governance of USOR from USBE. Figure 4.5 presents

[35] Appendix C contains DWS's full statement on USOR.

some concerns with moving from USOE, as well as responses to these concerns.

Figure 4.5 Various Entities Have Expressed Concerns with Moving USOR from USOE.

Concern	Response
History of recommendations shows USOR should remain under USOE	This assertion has been misrepresented[1]
Decreasing the emphasis on student clients	Student clients will continue to be served, as they are in other states not placed under education.
Operating agreements with school districts	Agreements can be transferred to operate under another agency
Large grant for students	Changing governance will not affect grant
Funding, rules, policies and regulations come from US Department of Education	Other states are under different agencies and are still funded by the Department of Education
USOR is an education agency	While education is a component of USOR, the stated primary mission is employment. Education is not mentioned
Federal law is further aligning rehabilitation with education	Other states have chosen to align with labor in response to perceived shifts in federal law
Education has a natural flow and coordination of services	Operating agreements similar to those currently with DWS could preserve this coordination
DWS is primarily concerned with serving employers, while USOR focuses on the client	DWS employment funding sources do not allow a primary focus on employers
DWS's emphasis on online provision of services is difficult for a population that needs individualized, face to face service	Employment case management services are provided face to face, individually. In addition, federal requirements for personal services provides some assurance of maintaining the needs of clients[2]
DWS is too big, USOR will be swallowed up in that organization	Federal regulations require that if the oversight body is not primarily concerned with VR, there must be a separate agency within the oversight body that primarily deals with VR, has a full-time director, has primarily VR staff, and has major organizational status. This entity must also form their policy and determine allocation of VR funds.

Source: Review of meeting minutes and individual auditor interviews, and OLAG responses
1 – For example, USOR leadership told the Legislature an OLAG audit found no need to move USOR. In fact, the report recommended USOR move to DWS.
2 – In addition, as pointed out in our May 2015 audit number 2015 -02, A Performance Audit of DWS Customer Service and Follow-Up, DWS has taken, and continues to take steps to improve their customer service.

These concerns were expressed in venues including interviews with auditors, advisory committee meetings, and legislative committees. While they are legitimate concerns that require attention, they are also not without solutions.

Another concern expressed by USOR pertains to the timing of a decision to move the agency. Where USOE is currently working to restructure and improve USOR, it is questioned whether the agency could sustain the additional changes to its core operations that would naturally occur in a transition to another agency. It has been suggested that, instead of moving immediately, USOE be afforded time to correct USOR's problem. Then, the question of whether to move USOR could be taken up again once USOR is in a more stable position.

Changes can and should continue in the entity in which USOR is likely to remain.

We disagree with this plan and believe that the necessary structural and oversight improvements ought to be made in the agency in which USOR is likely to remain. If USOR is ultimately relocated after USOE spends multiple years correcting the current problems, those efforts would be largely wasted as relocation would require similar, significant changes to integrate or establish USOR in its new location. If the Legislature decides to relocate USOR, the natural delay in the political process should afford adequate time to prepare USOR for the transition.

This move is recommended because of the need for governance, not because of cost or efficiency.

Additionally, it is questioned whether there will be some efficiency gain or other cost reduction related to a relocation. Both USOE and DWS have expressed concerns that there may be additional costs to their organizations during the as yet undetermined transition process. The LFA believes relocation would likely be cost neutral to the state, but due to time constraints, no additional work has been done to determine the fiscal effect to the specific agencies.

Since the primary concerns outlined in this audit focus on the need for long-term governance, oversight, financial controls, and accountability, our recommendations for and analysis of moving USOR are focused on these needs and not cost or efficiency considerations.

Federal Regulations Require Consultation With Stakeholders

A study group consisting of stakeholders could work to address the concerns and fears discussed above. Two of the federal requirements of a potential governance change are that rehabilitation agencies consult with stakeholders and conduct public hearings.

Before moving USOR, the federal government requires meeting with stakeholders and holding public meetings.

The federal government specifies stakeholders as agency stakeholders, the director of the Client Assistance Program, the State Rehabilitation Council, and tribal organizations. If desired, this group could be expanded to include representatives from other state agencies.

Federal requirements for public meetings include that sufficient notice be given, that meetings be held in different locations throughout the state, and that they allow all modes of communication. These meetings could provide a valuable venue for hearing concerns and suggestions of how best to deal with stakeholder issues.[36]

Other Options Exist for USOR Placement

Although DWS appears to be a likely fit for USOR, there are other viable options. We examined the possibilities of placing USOR under DHS or creating a new independent agency.

DHS Is Another Governance Option

DSPD and SAMH in DHS are the most similar in services to USOR.

DHS offers a wide array of services but has two divisions that serve similar clientele, the Division of Substance Abuse and Mental Health Services (SAMH) and the Division of Service for People with Disabilities (DSPD). SAMH ensures the availability of prevention and treatment services for people with mental health disorders and substance abuse issues. DSPD provides services for people who have intellectual or physical disabilities or have an acquired brain injury. However, because SAMH is administered at the local level, we focused on the comparison of just DSPD and USOR.

Only six percent of USOR's clients have been in the DSPD system.

Comparing DSPD's nearly 5,500 clients with USOR's clients shows that only 6 percent of USOR's current clientele have ever been in the DSPD system, indicating minimal overlap between the two programs. DSPD's mission is to "promote opportunities and provide supports for persons with disabilities to lead self-determined lives," while USOR focuses on helping eligible individuals gain employment and independence. DSPD officials explained that the majority of their

[36] The federal Rehabilitation Services Administration (RSA) advises that "states should contact their RSA state liaison as early as possible to determine whether their reorganization is in compliance with federal requirements, including submitting proposed legislation or executive order requiring the reorganization."

clients are clients for life, and are unable to seek work due to their disabilities.

DHS Is Reluctant To Take USOR Given Potential Resource Shortages. When asked to respond to the possibility of combining DHS and USOR, DHS sees a lack of clear alignment of services and missions between USOR and their own operations. They are also concerned with the increase in oversight an alignment with USOR would have, in that it would "represent a 13 percent increase to the DHS workforce." Currently they report that "existing administrative infrastructure in DHS is already operating at full capacity." DHS closes their opinion by stating,

DHS reports that its administrative infrastructure is operating at full capacity.

> If after careful consideration it is determined DHS is the best state department for USOR, they will be welcomed and all efforts will be concentrated on assisting them to maximize services within the limitations of their appropriation. However, cascading consequences – more intense in the first year, diminishing in the out years – on the total scope of DHS services are not to be underestimated.[37]

USOR Could Be an Independent Department

A third option for governance is establishing an independent, cabinet-level entity. Six of the surveyed states noted in Figure 4.4 chose this option. A benefit of this move would be increased direct oversight by the executive branch. Currently, because of USOR's placement under USBE, the executive branch has little influence on USOR. Becoming an independent entity would increase the executive branch's oversight of USOR's operations and budget processes.

Six states have an independent rehabilitation agency.

A potential drawback of this arrangement is the possible lack of detailed budgetary oversight, leading to a repeat of USOR's current financial difficulties. This arrangement would require that USOR have a much tighter grip on their finances than they currently have.

[37] Appendix D contains DHS's full statement on USOR.

Recommendations

1. We recommend that the Legislature consider moving the Utah State Office of Rehabilitation from the Utah State Office of Education to be placed under the governance of the Department of Workforce Services. If the Legislature determines this is not the best location, we recommend they consider placing the Utah State Office of Rehabilitation under the Department of Human Services or making it an independent executive entity.

2. We recommend that, if the Legislature chooses to move the Utah State Office of Rehabilitation, recommendations from the other chapters of this report be implemented by whatever agency is chosen to house USOR.

3. We recommend that, if the Legislature chooses to move the Utah State Office of Rehabilitation, it also creates a study group responsible for the transition of the agency in accordance with state and federal requirements.

Chapter V
Use of Visually Impaired Trust Fund for VR Was Imprudent

Little documented guidance exists on the use or creation of the Visually Impaired Trust Fund (VITF or the fund), leading to the conclusion that it is not a legally defined trust fund. Because of this lack of documentation, the Utah State Office of Rehabilitation's (USOR) decision to use that money as part of the state's match of federal funds was questionable. The $500,000 worth of vocational rehabilitation expenses transferred into the VITF did not supplement funding for vocational rehabilitation (VR) services for the blind population; instead it was used to supplant traditional VR funding by utilizing an alternate funding source.[38] The Legislature may want to consider the possibility of reimbursing this fund.[39]

Guidance on Fund Use Is Limited

Although it is referred to as the Visually Impaired Trust Fund, there is no documentation of its establishment as a legal trust, and therefore no strict requirements that go along with that distinction. We recommend that the Legislature clarify exactly what type of fund the VITF should be, with accompanying overriding restrictions. Due to the lack of clear legal standards, it was within the power of the Board to use VITF for VR purposes.

The VITF is not a legally defined trust fund.

The Fund Is Not a Legal Trust

We could find no evidence that the VITF has ever been legally established as a trust fund, with the accompanying requirements for its

[38] Although "supplant" has a technical connotation in terms of federal grants, its use throughout this report will be according to the more common definition of "to take the place of." VITF money replaced expenditures of traditional VR grant money.

[39] In 2013, the State Board of Education approved the transfer of $500,000 worth of VR expenses into a donation fund intended for blind and visually impaired Utahns. This transferred money was used to pay for vocational rehabilitation services for blind and visually impaired clients. At the time of transfer, there was approximately $1 million in the fund.

use and formal documentation. The fund was established in approximately 1950 from individual contributions, and we found no documentation from its original creation. In 1983, a proposed policy attempted to clarify the purpose of this fund by stating "the fund shall be known as the Visually Handicapped Trust Fund and shall be deposited by the state and controlled by the Office of Education." [40] According to legal counsel, this statement and the accompanying policy alone are insufficient to create a legal trust fund.[41]

Attorneys from the Office of Legislative Research and General Council (LRGC) confirmed this lack of legal status.[42] They concluded that "there is no reliable evidence that the Fund was ever formally created as a trust fund."

The VITF does not have the same documentation requirements as a trust fund.

Because the VITF was never established as a "trust fund", it does not have the same legal requirements for documentation and use of funds. LRGC states:

> If the monies in the Fund are simply donated, the only legal requirement imposed on the state is that the state must expend them according to the direction, and subject to any conditions, established by the donor. . . . Without substantive evidence of a settlor's intent to create a trust fund, the Fund is not subject to legal requirements that would otherwise govern the administration and expenditures of a trust fund.

Funds must be used to "assist visually handicapped persons in Utah…"

The only documented direction or condition set on these funds is that they are used "to assist visually handicapped persons in Utah to live a richer, fuller, more constructive life." Because of the broad parameters of this requirement, it is difficult to determine that VR services do not fit under these purposes.

Exact Definition of the Fund Is Unclear

Although the VITF is clearly not a trust fund, the exact definition of the fund is unclear. The specific fund is not mentioned or defined

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[40] Due to generally incomplete records, we were unable to determine if this policy was approved by the Board.

[41] A trust fund is a unique legal entity that must be established and administered according to strict statutory and legal requirements. A settlor creates a trust, appoints a trustee, and names beneficiaries to benefit from the trust.

[42] For LRGC's entire written opinion, see Appendix E.

anywhere in state statute. The most helpful information is found in the State Office of Rehabilitation Act, shown in Figure 5.1, which gives USOR authority to receive gifts and also provides some guidance on how the gifts may be used.

Figure 5.1 State Code Allows USOR to Accept Gifts. These gifts must be used in accordance with the conditions of the gift.

Utah State Code **53A-24-1-108**
(1) The executive director may, with the approval of the board, accept and use gifts made unconditionally by will or otherwise for carrying out the purposes of this chapter. (2) Gifts made under conditions that the board finds to be consistent with this chapter may be accepted and used in accordance with the conditions of the gift. (3) Gifts are not subject to appropriation of the Legislature.

Source: ***Utah State Code***

The VITF is not specifically mentioned in state code.

We believe the code outlined in Figure 5.1 is the section which allows the VITF, but it seems the VITF should be specifically listed in this chapter. Some research indicates that the fund most closely resembles an expendable special revenue fund, but it does not meet all of the requirements.[43]

We recommend that the Legislature consider defining the purpose and type of fund the VITF should be, as they recently did with the Utah State Developmental Center Miscellaneous Donation Fund.[44] There was some question about the nature of the Developmental Center's donation fund, as well as its appropriate uses. In the 2013 General Session, the Legislature defined this fund as a restricted special revenue fund, which restricts its use to only those benefiting the intended population.

There is insufficient tracking of the conditions of VITF gifts.

The statute discussed in Figure 5.1 also requires that the use of the funds be "in accordance with the conditions of the gift." Currently, there is insufficient tracking of the conditions of the gift to ensure that these conditions are being met. In fact, in a review of the use of the fund by the Utah State Board of Education (USBE) internal auditor recommended "that [the Division of Services for the Blind and

[43] Expendable special revenue funds are discussed in ***Utah State Code*** 51-5-4(4)(c).

[44] The Utah State Developmental Center Miscellaneous Donation fund is discussed in ***Utah State Code*** 62A-5-206.5

Visually Impaired] establish policies and procedures and internal controls . . . to ensure appropriate use of trust funds in accordance with donor stipulations." We concur with that recommendation.

USOR has started the process of establishing policies and controls for this fund. The draft policies include a list of each individual fund they oversee with the general purpose, the authority for use of the funds, and the procedures for management, accounting, and expenditures. The policies will continue through the approval process.

Board of Education Could Legally Use These Funds

The Board was within their authority to use the VITF for VR purposes.

Because the VITF is not a trust fund, there is nothing restricting the USBE from using this fund for any purpose that benefits the blind and visually impaired, including VR. The Division of Services for the Blind and Visually Impaired (DSBVI) has been the main entity in charge of these funds with the review and approval of USBE. When the fund was created, DSBVI outlined the first priority use of these funds as "to supplement or implement the programs and services of the Division through financial grants or through the purchase of equipment or renovations." As VR is a program and service of DSBVI, this appears to be a viable use of the funds.

LRGC agrees with this assessment.

> There is nothing indicating that the State Board lacked the authority to transfer money in the Fund. The State Board approved the expenditure for vocational rehabilitation services provided by DSBVI, an expenditure that is arguably within the spirit of the Fund's history going back over 70 years of using the donations to help the visually impaired. . . . The State Board acted within its statutory authority to approve the Fund transfer, consisting of donations, for vocational rehabilitation purposes.

VITF Use Was Questionable

VITF use as state match may not have been appropriate, given poor record keeping. The federal government has not questioned this use. In addition, the use of $500,000 VITF money essentially supplanted the funds usually used for blind and visually impaired VF clients.

Use of VITF Money as State Match was Questionable

Because the $500,000 was used for VR purposes, USOR accounted for this as a state match of federal funds. This classification may have been inappropriate, although the federal government has not questioned this use. There are specific federal requirements for when private donations are allowed to be counted as state match. These requirements are that the private donations are earmarked for one of the following:

Private donations can only be used as state match for specific purposes.

- The state match
- Geographic areas
- For "any other purpose under the state plan"

Because record keeping has been poor as to the specific donation purposes of these funds, there is no way to know whether the funds were earmarked for the purposes listed above. This further emphasizes the need for better record keeping regarding these donations.

VITF Money Did Not Increase the Amount of Services for the Blind

Despite the payment of VR expenses with VITF funds, neither the number of blind or visually impaired VR clients, nor the amount spent on these clients has increased a similar amount. Instead of increasing services or the number of clients, the fund money was used to supplant typically used VR funds. Figure 5.2 shows the amount spent and number historically served.

Neither the number of clients nor the amount spent on VR for the blind markedly increased.

Figure 5.2 The Number of Clients and Amount Spent on Clients Have Not Markedly Increased Since the Funds Were Transferred in 2014.

Federal Fiscal Year	VR Amount ($)	Number VR Clients
2010	842,534	624
2011	693,337	661
2012	749,568	616
2013	914,318	665
2014	**923,788**	**634**

Source: USOR Division of Rehabilitation Services

As can be seen in the figure, the average number of blind or visually impaired clients from 2010 to 2013 was 641.5. The 634 clients served in 2014 is not out of line with that number. In addition, the money was moved to VR in 2014, with only about a corresponding $9,000 increase in the amount spent on the blind and visually impaired population for VR. Consequently, we believe these funds were used to supplant VR funds traditionally used for this population because of USOR's larger budget problems.

Funds used from the VITF appear to have been used for blind VR clients.

Although there has been some question about whether these funds taken from the VITF were actually spent on the blind population, it appears that they were. All of the expenditures were coded to cover the blind and visually impaired population.

In addition, since the $500,000 was moved from the VITF, no grants have been awarded. Prior to 2013, grants were awarded from the interest earned on the VITF, and ranged from $600 to $2,500. Grants were given to groups such as the National Federation for the Blind, the Ogden Association for the Blind, and the Utah Council for the Blind.

The purpose of the VITF should be defined. The uses until 2014 were fairly minor, and exclusively used the earned interest. Although there are requirements for how the interest on the fund has been used, we have seen nothing discussing the use of the principal. In order for these funds to be more productively used, we recommend DSBVI and USOR, under the policy direction of USBE, determine the purpose of these funds.

Options Exist for Possible Reimbursement of the Funds

The Legislature has options if it determines these funds should be reimbursed.

The Legislature may want to determine whether it is comfortable with the way these funds were spent, whether the funds should be reimbursed, and if so, how. Although it was legal, use of the fund for VR expenses was unusual, and there has been great concern in the blind and visually impaired community. Federal requirements prohibit using federal grants to reimburse the fund, so any reimbursement would have to come from state funds.

The following are options the Legislature could choose in relation to the VITF:

- Do nothing and allow the fund to be replenished by donors.
- Appropriate state general funds, gradually or all at once, to reimburse the VITF.
- Require USOR to reimburse the VITF with non-lapsing funds.[45]
- Require USOE to reimburse the VITF with education funds.

We recommend the Legislature determine whether these funds should be replenished.

Recommendations

1. We recommend that the Legislature clarify in code which type of fund the Visually Impaired Trust Fund should be, as well as how it can be used.

2. We recommend that policy for use and oversight of the Visually Impaired Trust Fund be written and followed by the Division of Services for the Blind and Visually Impaired.

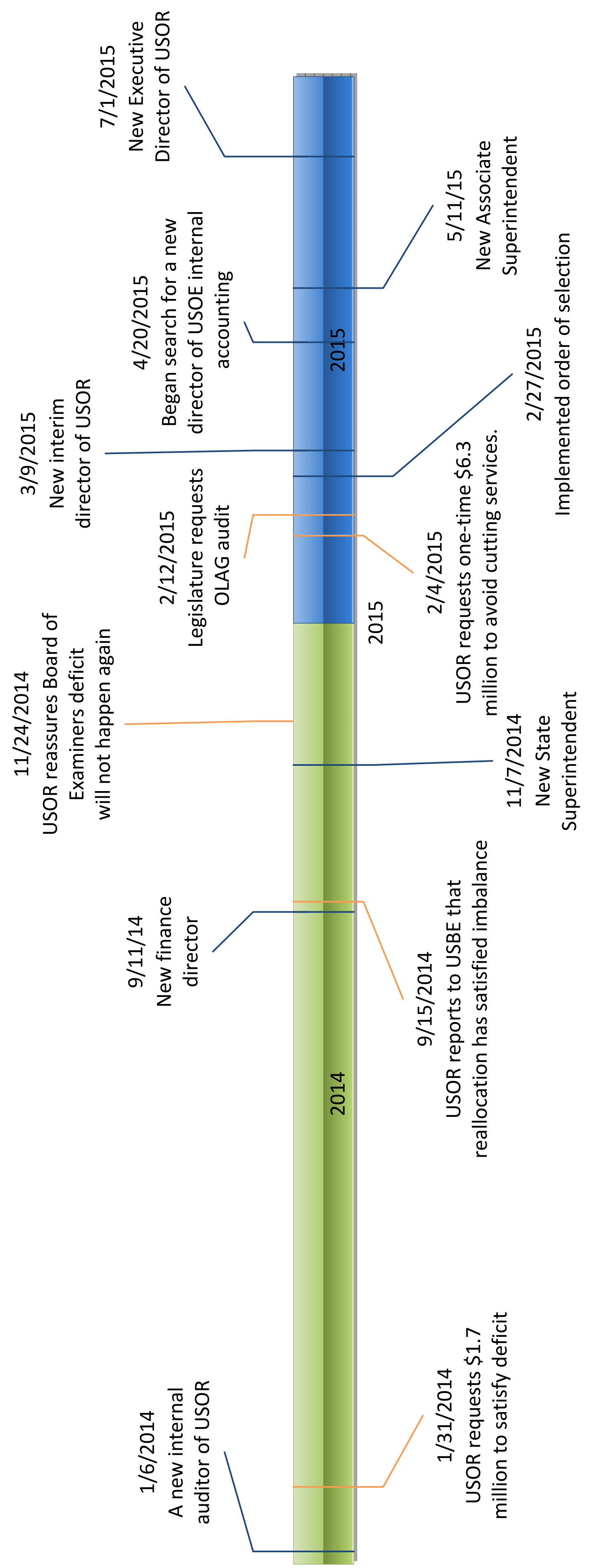
3. We recommend that the Division of Services for the Blind and Visually Impaired, under the policy direction of the Utah State Board of Education, determine the ultimate purpose of remaining Visually Impaired Trust Fund money.

4. We recommend that the Legislature consider whether Visually Impaired Trust Fund money should be reimbursed, and if so, how that is to be accomplished.

[45] These non-lapsing funds would also be taken from the Education fund.

Appendices

Appendix A
Timeline of Events and Tenure of Management at USOR and USOE


1/6/2014
A new internal auditor of USOR
1/31/2014
USOR requests $1.7 million to satisfy deficit
2014
9/11/14
New finance director
9/15/2014
USOR reports to USBE that reallocation has satisfied imbalance
11/7/2014
New State Superintendent
11/24/2014
USOR reassures Board of Examiners deficit will not happen again
2015
2/4/2015
USOR requests one-time $6.3 million to avoid cutting services.
2/12/2015
Legislature requests OLAG audit
2/27/2015
Implemented order of selection
3/9/2015
New interim director of USOR
4/20/2015
Began search for a new director of USOE internal accounting
5/11/15
New Associate Superintendent
2015
7/1/2015
New Executive Director of USOR

Appendix B
Audit Number 2000-03 A Follow-up Review of Utah's Employment and Training Programs

REPORT TO THE

UTAH LEGISLATURE

Report No. 2000-03

A Follow-up Review of Utah's Employment and Training Programs

August 2000

Audit Performed by:

Audit Manager	Rick Coleman
Audit Supervisor	James Behunin
Audit Staff	Darren Marshall Salvador Petilos Pauline Ingols

need to ensure that the department adequately monitors the effectiveness of its services to special needs populations and, if necessary, develops special strategies to meet their unique needs. As the department shows it can effectively serve clients with special needs, we believe the Legislature should consider consolidating the State Office of Rehabilitation with DWS, as discussed in the next section.

Should the State Office of Rehabilitation Be Consolidated with DWS?

There is a significant overlap in services between the Department of Workforce Services (DWS) and the Utah State Office of Rehabilitation (USOR). In fact, two-thirds of USOR clients are also clients of DWS. Just as we reported in our 1992 audit, we found that clients are still caught between two agencies that duplicate their efforts, that do not coordinate with one another, and that have very different policies. In order to reduce duplication and improve service delivery, we recommend that the State Office of Rehabilitation become a separate division within the Department of Workforce Services. If this is not possible, the two agencies should at least try to coordinate their efforts in a way that allows clients to receive the services of both agencies through a single case manager.

It was originally assumed that little overlap exists between USOR clients and those of other agencies.

The USOR was originally included among those agencies that were to be consolidated into the Department of Workforce Services. However, the Governor's Task Force was told that USOR clients were typically not among those being served by other agencies. In addition, some client advocates argued that people with a disability require specialized services that could not be provided by the Department of Workforce Services. As a result, the Governor's Task Force recommended that the issue be studied further rather than including USOR in the new department. The legislation creating the new department included language requiring such a study. However, funding for the study was never provided and the requirement was repealed during the 2000 Legislative Session.

We found that most USOR clients are in fact clients of the Department of Workforce Services. In addition, if USOR is transferred to DWS as a separate division, USOR clients would continue to be served by rehabilitation counselors. In fact clients would be able to receive better service because their rehabilitation counselors would be able to draw from additional services and benefits offered by DWS.

Lack of Coordination Between Agencies Results in Inefficient Administration of Services

The USOR was not included among the agencies that were consolidated into DWS because many believed that the USOR served a unique client population. However, over two-thirds of the clients served by USOR in 1999 were also clients of DWS. That statistic, plus our own review of 23 case files of clients served by both agencies, led us to conclude that there is significant duplication in some services between the agencies. In addition, some clients may not be receiving some benefits and services that they would have received if they were served by a common case manager.

69% of USOR clients are also DWS customers.

Sixty-nine Percent of USOR Clients are Also Served by DWS. Of the 21,152 clients that were served by USOR during fiscal year 1999, at least 14,593 (or 69 percent) were also clients of the Department of Workforce Services. USOR staff report that the overlap results from their policy of having all clients register with DWS as soon as they are job ready. Thus, rather than indicating duplication, USOR staff feel the client overlap reflects efforts to coordinate services. Still, so many clients receiving services from both agencies indicates that there could be some benefit from consolidation. The client overlap raises the same concerns we raised in 1992 regarding the poor customer service and inefficiency that results from a fragmented service delivery system. For example, clients must fill out two sets of applications, pass through two eligibility reviews, and work with two separate employment plans developed by both DWS and USOR.

A client's USOR employment plan often conflicts with his or her DWS plan.

Lack of Coordination Results in Disjointed Services. As a result of our review of client case files and through interviews with staff we found that both DWS and the USOR are often unaware of whether clients are receiving services from the other agency. As a result, the employment development plan prepared by DWS often conflicts with the rehabilitation plan prepared by USOR. In addition, if not identified early on in the process, a person with a disability may use up some of their time limited benefits before they begin receiving rehabilitation services.

One problem that both agencies have is determining which clients are receiving services from the other agency. Since neither agency has access to the other's client databases, they must rely on the client in providing this information. As a result, opportunities to coordinate service plans early on are often lost placing an added strain on DWS eligibility time limits.

For example, in over one-half of the case files that we reviewed, DWS and USOR did not recognize the same disabilities of their mutual clients. Much of this difference can be attributed to USOR's more in-depth assessment of a person's disabilities. In addition, DWS's failure to recognize all of a client's disabilities could result in the ineffective delivery of services to those with a disability. In some instances, DWS does not recognize their clients have certain disabilities until months after they have started using DWS benefits. In one instance, DWS failed to recognize a client's psychological disorder until some time after she had begun using up her FEP benefits.

DWS does not always recognize a customer's disability.

We also found that valuable time can be wasted when a client is referred from DWS to USOR. DWS may take a few weeks or months working with an individual before they realize that he or she has a disability and is referred to USOR. If the customer is relying on time-limited benefits, the delay may compromise his or her ability to complete some USOR training programs. In addition, it takes USOR an average of 53 days to verify eligibility and begin delivering services. Thus, a customer may use up several months of their time-limited benefits before beginning their USOR training program.

DWS needs to do a better job of identifying those who may have a disability early in the process to allow the most efficient use of both agencies' resources and to achieve the most effective results. In addition, both agencies should have access to the other's client database (if permissible under federal requirements) to improve the timing and distribution of services between the two agencies.

It's possible that both agencies could pay for a customer's food or transportation expenses.

Both Agencies Pay for Client Supportive Services. An additional concern we have is that some clients might be paid by both agencies for the same exact service. In a review of 23 case files of clients served by both agencies, we found two cases in which clients received the same type of services from both agencies. However, we could not determine whether there was any double payment for the exact same service because the lack of documentation in the files. One of these clients received bus passes from both DWS and USOR and the other client received groceries from USOR, food stamps from DWS and child care from both agencies as well. We are concerned about the possibility that clients may apply to both agencies for the same types of expenses, since neither agency coordinates services on a routine basis.

Separate Policies Create Problems

One of the issues raised in the 1992 audit, which still exists between USOR and DWS, is the problem of having agencies with different policies serve the same clients. In our 1992 audit report, we addressed the difficulties that are created when the state tries to provide clients with a consistent package of services when they are served by different agencies, each with their own policies and budgets. This still remains a problem with DWS and USOR.

USOR's Philosophy Focuses on Training and Education While DWS's Philosophy Focuses on Employment. Both DWS and USOR have the same goal of having clients obtain employment and become self-sufficient. However, the two agencies take different approaches to achieving that goal. DWS places a priority on placing a client in a job as soon as possible while USOR focuses more on helping individuals improve their skills.

USOR emphasizes training while DWS emphasizes immediate placement in a job.

Clients of USOR qualify for services by having a disability that prevents them from working. In addition, they must be able to re-enter the workforce through education, training or assistive technology. It is also policy of USOR to allow clients to decide what their career objectives are and therefore the type of training they will receive. This freedom to choose their own career objective even goes so far as to allow USOR clients to switch to new fields of study in the middle of a training program.

In contrast to the USOR policy that places no time limits on benefits, DWS operates under a policy in which a time limits are placed on most customer benefits. Specifically, a customer on the family employment program has 36 months to become self-sufficient; however, only 24 of those months can be used for training. Moreover, a customer on general assistance may obtain two years of assistance within five years. DWS does permit time extensions if valid reasons are given. As a result, it is the policy of DWS to encourage its customers to find a job as soon as possible.

USOR may choose to enroll someone in a four year college program while DWS prefers to limit training to 2 years.

Because the two agencies operate under different policies, serious problems for the client can occur. For example, clients of USOR may wish to pursue a two or four-year program; however, we found that the majority of clients experience set-backs while in their programs delaying their program completion times. Furthermore, USOR clients often start their training program after having started receiving benefits at DWS. Either situation makes them unable to follow their USOR service plan because of the deadlines at DWS ,and adjustments need to be made. As one example, we found in our case file reviews that one female client decided midway through her training program to switch to a new career, even though her TANF benefits were running out and she hadn't begun the new program yet. Her DWS employment counselor said that it is a very difficult decision to extend DWS benefits because it would be difficult for the client to become self-sufficient and employable within the time requirements if she chose to pursue a different course of training.

Legislature Should Consider Ways to Reconcile Conflicting Policy Objectives. The Legislature may want to address the conflicts between the state's policies for vocational rehabilitation and workforce services. One way to bring greater policy consistency between USOR and DWS would be to place the two agencies within the same department and have them report to the same legislative committee. If USOR were made into a separate division within DWS, it would have to develop a set of program policies that are consistent with the state's welfare-to-work program while retaining specific flexibility to meet the requirements of its federal grants.

Legislators should consider ways to resolve policies differences.

Legislators might also consider adopting a policy similar to the one used in California to limit client's ability to change vocational rehabilitation plans. The California State Auditor pointed out that some regions of the California Office of Rehabilitation conserve limited resources with the following policy.

> *The Fresno and Greater Los Angeles districts emphasize to their counselors the importance of constantly evaluating client needs versus wants and also giving clients only what they need to support their plans for employment. Further, counselors stress to every client that the plan for employment is essentially a contract and generally it will not be changed except to accommodate an alteration in the client's disability. . . .This discourages clients from repeatedly changing their vocational goals and optimizes the district's use of money and resources.*

When this policy was suggested to the USOR, staff told us that they believed that restricting a client's ability to change their training program would violate the "informed choice" provision of federal law and would not stand up to a court challenge. Clearly, further study would be needed to determine how these regions in California are able to comply with the requirement of giving clients an informed choice.

Consolidation May Improve Case Management

In Chapter II of this report, we suggested that one of the benefits of consolidation is that all employment and training services can be provided through a single case manager who has access to all services that the state can offer a client. Bringing USOR within DWS would make it possible for a single rehabilitation counselor to oversee all of the services provided to a person with a disability. The rehabilitation counselors would be authorized to draw from every source of funding and services offered by the state and use those to develop a comprehensive employment plan.

If consolidated, rehabilitation counselors should continue to function separately from employment counselors.

USOR Could Be Incorporated into DWS as a Separate Division to Facilitate Coordination of Services. If the Legislature chooses to integrate DWS and USOR, we recommend that the vocational rehabilitation counselors remain separate from other DWS employees because of their specialized training. This is necessary in order to retain USOR's highly trained staff of rehabilitation counselors. According to the Associate Commissioner for Rehabilitation Services Administration within the U.S. Department of Education, Utah is one of only a few states that require rehabilitation counselors to have a masters degree in rehabilitation. She said that this placed Utah far ahead of other states in terms of the professionalism of their staff. She said that studies by Rehabilitation Services Administration show a strong correlation between the education level of a state's rehabilitation counselors and a state's placement rate. For this reason she suggests that if the Office of Rehabilitation is combined with the Department of Workforce Services, the rehabilitation counselors should remain a separate position.

We agree that if USOR is made into a separate division within the Department of Workforce Services, that the state's highly qualified rehabilitation counselors should continue to provide rehabilitation services to people with disabilities. This means that individuals who have a disability would be assigned to a rehabilitation counselor who could then oversee all the services provided to that client. Because they will be a part of DWS, the rehabilitation counselors would be able to draft an employment plan that draws from all the different state employment and training services for which the client is eligible. This, in our view, would greatly improve the quality and quantity of services that the state offers to people with disabilities.

Consolidation should help the state monitor performance of programs serving individuals with disabilities.

Consolidation Will Improve Program Assessment. Another reason to consolidate DWS and USOR is that it will allow legislators and administrators to accurately assess performance. As long as the two agencies share clients and both have a goal of placing those individuals in a job, it will be difficult to hold both agencies accountable for successful or for poor performance. If a client is successfully placed in a good job, both agencies could take credit for that placement. On the other hand, if a client remains in the system for years without achieving self sufficiency, both agencies could blame the other for not providing adequate services. Placing both programs in the same department would make it easier for the Legislature to provide consistent policy and budget oversight and hold them accountable for their performance.

Some States have Combined Rehabilitation and Workforce Services. During a review of other state vocational rehabilitation programs, we found that there is no predominate location for vocational rehabilitation in state governments. In many states, like Utah, vocational rehabilitation is considered an educational program. Many other states include vocational rehabilitation within its human services department. However, with the passage of the Workforce Investment Act and the move towards one-stop service centers for employment and training programs, several states have recently combined their vocational rehabilitation programs with their agencies for employment and training.

Several states have combined their vocational rehabilitation and workforce services agencies.

According to representatives at two national organizations that we spoke with—the Rehabilitation Services Association and the Rehabilitation Services Administration within the U.S. Department of Education—a few states began consolidating vocational rehabilitation with workforce services several years ago because it was viewed as a way to reduce the cost of service delivery. Then, with the passage of WIA, which requires a high level of coordination between the two programs, even more states chose to consolidate these agencies. Examples include Minnesota, Wisconsin, Michigan, New Jersey, Wyoming and Nevada. When we asked whether the vocational rehabilitation program has suffered as a result of consolidation, they said that there is no evidence that the quality of rehabilitation services have declined or clients that have been adversely effected by the change. But at the very least, these states consider it to be a good way to improve the efficiency of service delivery if not improve service quality.

Choose to Work program created a synergy between USOR and DWS staff in the program.

"Choose to Work" Program Shows That Combining USOR and DWS Improves Services. The joint effort between USOR and DWS in creating their "Choose to Work" program shows that the two agencies can, in fact, combine their efforts to form an effective program that meets the needs of clients of both agencies. The success of the "Choose to Work" program can also be considered a reason why consolidation could be beneficial.

Since October 1999, the "Choose to Work" program has placed 310 out of 550 individuals receiving TANF, General Assistance, SSI, or SSDI benefits in jobs. This equates to a 56 percent placement rate. According to the co-coordinator of the Choose to Work program, "For most individuals, even those with strong disabilities, this program can work for them."

One reason why coordination of services is beneficial to USOR is because it lacks the employer contacts and the focus on developing these contacts with the employer community. By creating teams of DWS staff, who are effective at the placement process, with the vocational rehabilitation staff, who are effective at the rehabilitation process, the trial program demonstrates how there may be a synergy created by combining DWS and USOR. Each has a skill that complements the other.

USOR Officials Oppose Consolidation

USOR officials are concerned about the risks of consolidation.

Officials from the Utah Office of Rehabilitation have expressed opposition to consolidating their agency with the Department of Workforce Services. They feel USOR operates one of the best rehabilitation programs in the country and Utah should not risk damaging such a successful program. USOR staff expressed the following concerns about consolidation.

1. USOR and people with disabilities that they serve would lose visibility with the Legislature,

2. The quality of services provided to clients would suffer under DWS's welfare reform mentality, and
3. Consolidation has not worked in other states that have tried it.

USOR might lose its visibility with the Legislature.

USOR officials may be correct in believing that consolidation would lessen their visibility with the Legislature. Currently, USOR does enjoy some distinction with the Legislature as a separate state agency. Appropriations to USOR are made as a separate line item in the state budget. As one of many specific programs within DWS, USOR might not receive the same recognition from legislators. In addition, all appropriations to DWS is currently made as a single line item. Legislators would have to decide whether to include USOR within that budget or to continue to give them a separate line item in the budget.

We have no evidence to support the latter two concerns expressed by USOR. In our opinion, the quality of services to rehabilitation clients can improve by making USOR a division within DWS. Most of the USOR programs would remain intact and counselors would be able to draw on additional programs and services offered by DWS. As far as the experience of other state's is concerned, the individuals from other states and national organizations with whom we spoke said there is no evidence that rehabilitation services have suffered as a result of their consolidating vocational rehabilitation with their state's employment and training agency.

If Consolidation is Not Possible, Coordination Must Improve

If the Legislature determines that USOR should remain a separate agency, an effort should be made to integrate the services offered by the two agencies as much as possible. Our primary concern is that clients will not be well served as long as their employment development and training is handled by two separate case managers who follow two different sets of policies.

If they are not combined, the two agencies should explore ways to improve their efforts to coordinate services. For example, USOR and DWS might explore the possibility of entering into a contractual relationship which would allow USOR to manage the entire range of services that are currently provided by DWS and USOR separately. This means the Vocational Rehabilitation Counselor would need to have authority to incorporate all of the public assistance benefits, funds for training, and food stamps that are currently handled DWS, into a client's employment plan.

If consolidation is not possible, USOR and DWS should share client data and co-locate as much as possible.

In addition, USOR and DWS should investigate ways to enhance the ways they coordinate now. For example, efforts to share client databases can be enhanced. USOR staff feel that DWS's new UWORKS system may enable greater information sharing. Also, efforts to locate USOR staff within the one-stop service centers operated by DWS can be increased. USOR staff report they are trying to co-locate with DWS as much as possible, but DWS has sometimes not been able to accommodate USOR staff.

Finally, an effort should be made to resolve the policy differences between the two agencies so that DWS isn't trying to immediately place the individual in a job while USOR is trying to implement a three or four-year training program. In our opinion, clients should not have to sort out conflicting messages from two case managers.

Recommendations:

1. We recommend that the Legislature or the State Council on Workforce Services identify the method the Department of Workforce Services should use to decide how many program staff should be assigned to each employment center.

2. We recommend that the State Council on Workforce Services, after consulting with each regional council, identify the performance standards to measure the effectiveness of individual programs and employment centers.

3. We recommend that future surveys of customer satisfaction include survey results for specific customer groups such as those clients receiving support services.

4. When customer monitoring indicates it is needed, we recommend that the Department of Workforce Services describe in its strategic plans the strategies that will be used to meet the needs of specific client groups with special needs.

5. We recommend that the Office of Rehabilitation be made into a separate division within the Department of Workforce Services.

6. If the Office of Rehabilitation is not transferred to the Department of Workforce Services, we recommend the agencies take steps to improve coordination including sharing client information when possible and developing a shared service plan for each client.

Appendix C
DWS Statement on USOR Governance

State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of Workforce Services

JON S. PIERPONT
Executive Director

CASEY R. CAMERON
Deputy Director

GREG PARAS
Deputy Director

August 9, 2015

Utah State Auditors Office

RE: Letter of Input

The Department of Workforce Services (DWS) was asked to provide a letter of input to the current audit pertaining to the Utah State Office of Rehabilitation (USOR). Specifically, we have been asked to address the possibility of USOR being moved under our agency. We welcome the opportunity to share our perspective on the matter.

DWS has a long-standing partnership with USOR, especially as it relates to working together around employment initiatives and the Office of Vocational Rehabilitation. Our missions align where training and/or job readiness activities lead to employment for our customers. We work together on committees, share data and referrals, as well as information between case managers. In addition, we co-manage the Choose to Work Program.

The new Workforce Innovation and Opportunity Act (WIOA), through the Department of Labor (DOL), requires our agencies to work as mandatory partners in the implementation of this new law. Thus, there is much that we are working on together and will continue to do so along these lines.

There are areas of USOR that appear to be independent of this alignment. For instance, Disability Determination Services seems to be a stand-alone, federally funded program, governed heavily by the Social Security Administration. The end goal of customers seeking these services is not employment, rather a disability determination. Although these individuals may also be on programs such as Medicaid, Food Stamps and General Assistance, there does not appear to be the ability to align these programs with an employment outcome or merge administration with the existing public assistance programs.

DWS will be an active and willing partner in any request to explore additional oversight duties. We respect and appreciate the opportunity to administer these types of government services. We are a caring and service-oriented department that takes great pride in serving the citizens of Utah.

If DWS is asked to take on the programs of USOR, it will require a strong action plan where collaboration is a must with all parties involved. In addition, a thorough budget evaluation

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will be needed to understand the financial resources necessary to administer the programs. Our goal will be to ensure a smooth transition where the customers feel little impact, and if change is necessary; it is only to improve efficiencies and service.

We look forward to more dialogue on this issue. Thank you for soliciting our input.

Kindest Regards,

jon pierpont

Jon Pierpont

Appendix D
DHS Statement on
USOR Governance

State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

DEPARTMENT OF HUMAN SERVICES

ANN SILVERBERG WILLIAMSON
Executive Director

MARK L. BRASHER
Deputy Director

LANA STOHL
Deputy Director

August 5, 2015

Leah Blevins
Jake Dinsdale
Office of the Legislative Auditor General
350 North State Street
Salt Lake City, UT 84114

The Office of the Legislative Auditor General (OLAG) requested that the Department of Human Services (DHS) respond briefly to the possible transfer of the Utah State Office of Rehabilitation (USOR) to DHS.

The addition of USOR would increase DHS staff by 500 employees representing a 13% increase to the DHS workforce. DHS current employee count is approximately 4,000 full time employees with 7 distinct divisions. Each division has their own line item with multiple programs, systems, and grants to manage. The addition of USOR would add 4 new programs and increase oversight without additional resources in EDO to manage the new demands. A concern about transferring USOR to DHS, particularly at a time when the financial and administrative oversight is so critical, is that existing administrative infrastructure in DHS is already operating at full capacity, frequently making difficult choices of priority within the existing scope of the mission. The Executive Director's Office, responsible for finance, contracting, federal compliance, internal audit among other roles, has sustained cuts of 23% since FY 2009 while at the same time meeting expectations of additional oversight.

DHS anticipates additional oversight of USOR would be required in the first year to assist with establishing a sound fiscal plan and ensure they end the year with a balanced budget. Without additional investments, this would require pulling resources from other areas reducing their oversight and jeopardizing those programs where it was withdrawn. Staff charged with providing oversight would require time to gain the necessary knowledge of the programs and their requirements. Currently, DHS lacks the expertise in eligibility determinations which is an important function of USOR. DHS would need to become more familiar with employment counseling, vocational rehabilitation, and new federal grants and waivers. These are areas that other Departments have more expertise in and might be better suited to make the transition without compromising other oversight responsibilities.

If after careful consideration it is determined DHS is the best state department for USOR, they will be welcomed and all efforts will be concentrated on assisting them to maximize services within the limitations of their appropriation. However, cascading consequences – more intense in the first year, diminishing in the out years- on the total scope of DHS services are not to be underestimated.

Sincerely,

Mark L. Brasher, Deputy Director

Office of the Executive Director, 195 North 1950 West, Salt Lake City, Utah 84116
telephone (801) 538-4001 • facsimile (801) 538-4016 • www.hs.utah.gov

Appendix E
Office of Legislative Research and General Council VITF Use Written Opinion

OLRGC
Office of Legislative Research and General Counsel

Michael E. Christensen
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To: Leah Blevins

From: Victoria Ashby, Associate General Counsel
John Fellows, General Counsel

Date: July 9, 2015

Re: Legal Opinion Responding to Your Request

This memo responds to your request for an opinion on the following questions:

1. Is the "Individuals with Visual Impairment Fund" (Fund) a formally created trust fund?
2. Was the State Board of Education (State Board) transfer in November 2013 of $500,000 from the Fund to assist in providing vocational rehabilitation services a legitimate use of the Fund?
3. Could the State Board transfer Fund money for purposes of meeting federal maintenance of effort requirements (state match) for federal vocational rehabilitation programs?

We conclude that the Fund is not a trust fund and that the State Board's expenditure for vocational rehabilitation services was appropriate. We also conclude that the State Board's use of the Fund to contribute to the state match was appropriate if donations in the Fund met federal earmarking requirements.

1. **Question: Is the Fund a formally created trust fund?**
   Answer: No.

There is within the State Office of Rehabilitation (USOR) a fund presently called the "Individuals with Visual Impairment Fund," which contains donations from donors who wish to assist the visually impaired. Part of your question involves the legal status of the monies donated to the Fund. Particularly, you asked whether the monies are part of a legal trust with the state as trustee or if they are simply donated funds.

A trust fund is a unique legal entity that must be established and administered according to strict statutory and legal requirements. Generally, a "settlor" creates the trust, provides the revenues or deposits to fund it, appoints a trustee, provides direction to the trustee about how trust funds are to be invested and distributed, and names one or more beneficiaries to benefit from the trust. The trustee has affirmative fiduciary responsibilities requiring the trustee to invest, manage, and distribute trust monies with the same care as if they were the trustee's own funds. The beneficiaries of a trust receive the monies or other assets of the trust from the trustee according to the instructions established by the settlor.

If the monies in the Fund are simply donated, the only legal requirement imposed on the state is that the state must expend them according to the direction, and subject to any conditions, established by the donor.

There is no reliable evidence that the Fund was ever formally created as a trust fund. The Fund has been called at various times the "Endowment Trust Fund for the Blind," the "Visually Handicapped Trust Fund," the "Visually Impaired Fund," and the "Individuals with Visual Impairment Disability Fund." Although the Fund was initially called a "trust fund," the Fund does not meet the legal requirements of a trust fund. Under Utah law, a settlor must indicate an intention to create a trust, or a statute must authorize the trust.[1] There is no evidence that either of those conditions were met.

The earliest available documentation of the Fund is a 1984 "Visually Handicapped Trust Fund Proposal" (1984 Proposed Policies) prepared by the Division of Services for the Visually Handicapped (DSVH) within the Office of Agency and Rehabilitation Services (OARS). DSVH is now known as the Division of Services for the Blind and Visually Impaired (DSVBI) within USOR, which is under the direction of the State Board. [2] According to the 1984 Proposed Policies, the Fund was established at least 40 years earlier from various gifts. These gifts had historically been used "to benefit the blind" and "to assist visually handicapped persons to live more useful and productive lives" through various programs. There is no evidence in the 1984 Proposed Policies that donors had ever indicated an intention to create a trust. Furthermore, there is no mention of the Fund being created as a trust or otherwise in state statute.[3]

Without substantive evidence of a settlor's intent to create a trust fund, the Fund is not subject to legal requirements that would otherwise govern the administration and expenditures of a trust fund.

[1] Utah Code Ann. § 75-7-401(1) (Supp. 2014).
[2] Division of Services for the Visually Handicapped, Utah State Office of Education, Visually Handicapped Trust Fund Proposal (1984). A copy of the 1984 Proposed Policies is attached as Appendix A.
[3] In a "Fund Information" memorandum issued by the Division of Finance, the Division, based on conversations between the Division and the Utah State Office of Education (USOE), characterized the Fund as a trust fund. However, that characterization is insufficient to create a legal trust. *See* Memorandum, letter, and supplemental information from Division of Finance to State of Utah Office of Education (May - June, 1985). A copy of the memorandum and supplemental letter and conversation notes are attached as Appendix B.

2. Question: Was the State Board transfer of $500,000 from the Fund to assist in providing vocational rehabilitation services a legitimate use of the Fund?

Answer: Yes.

In November 2013, the State Board transferred $500,000 from the Fund after hearing a report from the USOE Accountability and Finance Committee (Committee) Chair David Thomas regarding the Fund.[4] According to the minutes, USOR "requested the Board to consider approval of the expenditure of $500,000 from [the Fund]. The funding will be used to assist in provision of vocational rehabilitation services under [DSBVI] and help the agency meet federal Maintenance of Effort Requirements under the Vocational Rehabilitation Program." The Committee had provisionally approved the $500,000 transfer, and at the November 8, 2013, meeting the State Board gave the transfer final approval.

Although the 1984 Proposed Policies recommends the purposes for which donations in the Fund should be used ("to assist visually handicapped persons in Utah to live richer, fuller more constructive lives when the assistance which they need is in keeping with the philosophy of DSVH") and also proposes approval procedures for Fund expenditures and control, it is unknown whether the State Board ever adopted the 1984 Proposed Policies. It is also unknown whether these statements in the 1984 Proposed Policies are affirmative declarations of the donors' intent for the use of their donated money.

Based upon our conclusion that the Fund is not a trust fund, and because it is unclear what, if any, other requirements exist establishing authority to expend Fund monies, there is nothing indicating that the State Board lacked the authority to transfer money in the Fund. The State Board approved the expenditure for vocational rehabilitation services provided by DSBVI, an expenditure that is arguably within the spirit of the Fund's history going back over 70 years of using the donations to help the visually impaired. Furthermore, state law allows the executive director of USOR, with the approval of the State Board, to accept and use unconditional gifts for purposes consistent with state law and accept conditional gifts if the State Board determines that the conditions are consistent with state law.[5] The State Board acted within its statutory authority to approve the Fund transfer, consisting of donations, for vocational rehabilitation purposes.

[4] *See* Utah State Board of Education, Minutes of the Accountability and Finance Committee, Visually Handicapped Trust Fund (Nov. 8, 2013) attached as Appendix C.
[5] Utah Code Ann. § 53A-24-108 (2013).

3. **Question:** **Could the State Board transfer Fund money for purposes of meeting federal maintenance of effort requirements (state match) for federal vocational rehabilitation programs?**

   Answer: **Yes, if the transferred donated money was earmarked in accordance with federal law.**

Federal law dictates when private donations to a state may be used to match federal funds for vocational rehabilitation programs. Private contributions like those made to the Fund are allowed to be used for the required state match if the donations are "earmarked" by the donor in accordance with the following. (The term "earmarked" is not defined in federal law.)

a. Private donations earmarked for the state match

A donation by a private party may be used for a state match if the donation is earmarked by the donating party to meet "in whole or in part the State's share for establishing a community rehabilitation program[6] or constructing a particular facility for community rehabilitation program purposes."[7] It is unknown whether any of the donations were submitted with this earmark. If the donor did indicate that the donation was for the state match, and the Board segregated that money from other donations in the Fund, then the earmarked donation could be used to assist with the state match.

b. Private donations earmarked for geographic areas

If a donation by a private party is earmarked by that party for use in "particular geographic areas within the State for any purpose under the State plan" and in accordance with certain criteria, then the earmarked donation may be used for the state match.[8] There is no indication that the State Board approved transfer of money from the Fund for this purpose or that donors restricted use of the donation to a particular geographic area.

c. Private donations for any other purpose

A donation may be used for a state match if the donor earmarks the donation for "any other purpose under the state plan" and the donor, a relative of the donor, or any other entity with whom the donor shares a financial interest does not benefit from the expenditure unless the benefit is received after being vetted through the state procurement process.[9] It is unknown whether

[6] "Community rehabilitation program means a program that provides directly or facilitates the provision of one or more of the following vocational rehabilitation services to individuals with disabilities to enable those individuals to maximize their opportunities for employment, including career advancement…" 34 C.F.R. 361.5(9).

[7] 34 C.F.R. 361.60(b)(3)(i).

[8] 34 C.F.R. 361.60(b)(3)(ii).

[9] 34 C.F.R. 361.60(b)(3)(iii). "For a State to receive a grant under this part, the designated State agency must submit to the Secretary, and obtain approval of, a State plan that contains a description of the State's vocational rehabilitation services program, the plans and policies

any of the donations were submitted with this earmark or met the financial interest condition. If the donor did indicate that the donation was for the state plan, the donor did not violate the condition, and the Board segregated that money from other donations in the Fund, then the earmarked donation could be used to assist with the state match for purposes under the state plan.

Conclusion

To summarize, we conclude that there is no evidence that the "Individuals with Visual Impairment Fund" is a legal trust fund. We also conclude that the State Board was not prohibited from approving the funds transfer and that use of the transferred funds to help meet the state match was appropriate if the donations to the Fund were earmarked in accordance with federal law.

to be followed in carrying out the program, and other information requested by the Secretary, in accordance with the requirements of this part." 34 C.F.R. 361.10(a).

4004871

General Exhibit No. 3663

General Exhibit No. 3663

Visually Handicapped Trust Fund Proposal
January 6, 1984

SERVICES FOR THE VISUALLY HANDICAPPED

ADMINISTRATIVE OFFICES

Warren Thompson, Dir.
309 East 100 South • Salt Lake City, Utah 84111
Telephone: (801) 533-9393

M E M O R A N D U M #84-12

TO: Daryl McCarty

FROM: Warren Thompson *Warren Thompson*

SUBJECT: SUMMARY AND PROPOSED POLICY STATEMENT-VISUALLY HANDICAPPED TRUST FUND

DATE: November 8, 1983

Attached is a document summarizing the Visually Handicapped Trust Fund, together with a one page proposed policy statement which is intended to be used for securing Board approval on policy.

If the Board approves, I recommend we send copies of the full document to our accounting office, Mr. John McAllister, Assistant Attorney General, and the Treasurer's Office.

The document was discussed in detail with the Advisory Council on Visually Handicapped and includes their recommendations.

If you have any questions or desire further elaboration, please let me know.

/sn

Attachment

cc: Judy DeWaal

UTAH STATE OFFICE OF EDUCATION
Dr. G. Leland Burningham • Superintendent of Public Instruction
250 East 500 South • Salt Lake City, Utah 84111
OFFICE OF AGENCY AND REHABILITATION SERVICES

General Exhibit No. 3663

General Exhibit No. 3663

Visually Handicapped Trust Fund Proposal
January 6, 1984

DIVISION OF SERVICES FOR THE VISUALLY HANDICAPPED

Policies for administration of the Endowment Trust Fund for the Blind

This fund has been created by the financial gifts of many persons over the past 40 years. There is no single written guide that can be used in its administration. The practice has always been to accept financial gifts and to deposit them in a fund controlled by the State Office of Education. The State Treasurer now allows for the accrued interest to revert back to the Endowment Account.

In the past, these funds have been used to assist visually handicapped persons to live a more useful and constructive life. For example equipment has been purchased that has created jobs in the workshop. Deficits have been eliminated from the Revolving Fund in the workshop. The Endowment Trust Fund has also been used to renovate and maintain our various buildings which have included furnishings and equipment.

This fund can be used totally or as a part of additional local, state and federal money to create new programs or services. It is recommended that the Utah State Board of Education officially adopt a statement of purpose and establish the method for its administration.

The purpose of the Endowment Trust Fund for the Blind shall be to assist visually handicapped persons in Utah to live a richer, fuller, more constructive life when the assistance which they need is in keeping with the philosophy and policies of the Division of Services for the Visually Handicapped under the State Office of Education. One special gift of $1,000.00 was contributed with the request that it be used to benefit blind persons in Sanpete County.

The recommendations made by the Administrator of the State Services for the Visually Handicapped shall have as its first priority to supplement or implement the programs and services of the Division either through financial grants or through the purchase of equipment or renovations.

Administration of the fund shall be maintained by the State Office of Education. The accrued interest shall revert to the fund. Recommendations will be made by the Administrator of the DSVH to the State Superintendent who will make the final decision.

ATTACHMENT B
(DOCUMENT OF FILE)

General Exhibit No. 3663

Visually Handicapped Trust Fund Proposal
January 6, 1984

VISUALLY HANDICAPPED TRUST FUND - (USOE DIV. 87)

W.T./DSVH
October 1983

BRIEF HISTORY

The fund was established over 40 years ago from bequests and gifts. There have been no guidelines for its use other than to benefit the blind. It is deposited as a state fund. Recently interest from the fund has been permitted to be deposited into the fund. The fund has been used to assist visually handicapped persons to live more useful and productive lives by purchasing equipment at the workshop, eliminating deficits at the workshop, and renovating, maintaining, and furnishing various buildings belonging to DSVH. Recently $12,000 was transferred to another SOE account to permit Low Vision Aid services to a backlog of DSVH clients. Expenditures from the fund have been recommended by the DSVH Director and approved by the Superintendent, usually after Board approval.

RECOMMENDED POLICY

GENERAL STATEMENT

The fund shall be known as the Visually Handicapped Trust Fund and shall be deposited by the state and controlled by the Office of Education.

SOURCES OF INCOME

Bequests and other contributions exceeding $1,000.00 and not otherwise specified shall be deposited in the Fund. Receipts shall be provided to the grantor and shall become a part of the permanent record of the fund.

Annual interest shall accrue to the fund.

Repayment of loans for equipment etc., shall be deposited in the fund and properly identified.

EXPENDITURES

Expenditures shall be made by transfer of funds to other SOE accounts, by voucher and in accordance with other accounting and disbursement procedures within the SOE.

PURPOSE

The purpose of the fund shall be to assist visually handicapped persons in Utah to live richer, fuller more constructive lives when the assistance which they need is in keeping with the philosophy and policies of DSVH, USOE.

The first priority of the fund shall be to supplement or implement the programs, services, and funds of the division either through transfer of funds within SOE or through the purchase of equipment or renovation of DSVH facilities.

APPROVAL PROCEDURES

The Director, DSVH, shall make recommendations for expenditures to the Superintendent through the Associate Superintendent, Office of Agency and Rehabilitation Services. The Superintendent shall approve or disapprove the recommendation or may delegate this authority to the Associate Superintendent, OARS, or the Director, DSVH

ANNUAL REPORT

Visually Handicapped Trust Fund Proposal
January 6, 1984

DIVISION OF SERVICES FOR THE VISUALLY HANDICAPPED

VISUALLY HANDICAPPED TRUST FUND
(USOE DIV. 87)

HISTORY

The Visually Handicapped Trust Fund has been known for the past 40 years or so as the Endowment Trust Fund for the Blind. The name was recently changed to more accurately identify the fund. Actually the fund is not an "endowment" fund which infers that the fund is a "source of income" or that only the interest of the fund will be available for use. The fund actually has no such restriction.

The attached statement (attachment B) is the only record we have of the fund with the exception of a bequest in 1982 and receipts for small donations in the recent past. An extract from the Estate of Ruth Cowie Steiner is also attached (attachment C). It lists the Murray B. Allen Center for the Blind as one of four "Charitable" organizations to receive proceeds, designating that the Center receive 50% of the residue of the estate. No constraints are stipulated. In June 1982, we received $31,896.64 from the estate.

The current amount of the Visually Handicapped Trust Fund is approximately $190,000.00. There have been recent inquires from two consumer groups as to the uses to which the fund has been put, whether it shouldn't be used more frequently to support community efforts in behalf of the blind, and whether it is necessary for the State Board to approve expenditures, once policy has been established. These groups have requested they be presented with a policy statement regarding this fund.

Following is a proposed Policy Statement for utilization of the Visually Handicapped Trust Fund, setting forth the objectives and method of expenditures. (Attachment A)

Warren Thompson
Acting Director, DSVH
November 1, 1983

General Exhibit No. 3653

General Exhibit No. 3563

Visually Handicapped Trust Fund Proposal
January 6, 1984

******

FIFTH: All the residue of my estate and property, whereever situated, in cash, or in kind, or partly in cash and partly in kind, as my personal representative determines, to the following charitable organizations in the following respective portions:

a) To the Murray B. Allen Center for the Blind, 309 East 100 South, Salt Lake City, Utah.......... 50%

b) To The Boy Scouts of America, Great Salt Lake Council, to be used at Camp Steiner in the Uintah Mountains.................................20%

c) To The Neighborhood House, 1050 W. 5th South, Salt Lake City, Utah.............................20%

d) To The Humane Society of Utah.....................10%

****

ATTACHMENT C
(EXCERPT FROM WILL)

UTAH STATE OFFICE OF EDUCATION

250 East 500 South / Salt Lake City, Utah 84111
(801) 533-5431

Bernarr S. Furse
State Superintendent
of Public Instruction

September 16, 1986

Mr. Jesse Anderson, Chairman
Governor's Advisory Council for the
Visually Handicapped
309 East First South
Salt Lake City, Utah 84111

Dear Jesse:

The request of the Governor's Advisory Council for the Visually Handicapped that they be given approval to spend interest only from the Visually Handicapped Trust Fund to provide identified services, grants for projects, equipment, etc. was heard by the State Board of Education during its meeting on September 5, 1986. The Board gave approval to the Governor's Advisory Council for the Visually Handicapped to approve up to $1,000 for expenditures from the interest of the Visually Handicapped Trust Fund.

If you have any questions regarding this action, please give me a call.

Sincerely,

Bernarr S. Furse
State Superintendent
of Public Instruction

BSF:tb

cc: Wayne Noble, DSVH Administrator
Dr. Daryl McCarty

Appendix B

STATE OF UTAH
Division of Finance
Fund Information

FINET Name: (PED) Individuals with Visual Impairment Fund

FINET Fund: 2355

Legal Name: Individuals with Visual Impairment Fund

Legal Authorization: Trust relationship

Earns Interest: ☑ Yes ☐ No **Earns Interest Authority:** Trust relationship

Initiated By:	Creation Date:	Revision Date:	Termination Date:	Repeal Date	Old FINET Fund:
L Francom	7/1/1950	12/27/1996			738

Responsible Dept: 400

Responsible Division: Ed. Agency Servs.

Responsible Person: Jeff Young

Phone: 538-7633

Reconciler's Division: Ed. Agency Servs.

Reconciler's Name: Jeff Young

Reconciler's Phone: 538-7633

Revenue Source(s):

1) Contributions

Description and History:

(Fund # through FY 1984 was 914087).

Created approximately 1950. The fund is derived from contributions to provide services for the visually handicapped and varies in size from a few dollars contributed in lieu of flowers for a funeral to a $30,000 contribution willed to Services for the Visually Handicapped. Some donations state the purpose for which it may be used and some are given for whatever purpose is deemed advisable. Examples of expenditures made from this fund include: some remodeling for the Murray B. Allen center for the Blind and matching funds for federal grant on the Workshop for the Blind.

Fund expenditures are approved through the Utah State Advisory Council for the Blind with expenditures over $1,000 also receiving approval from the Utah State Board of Education.

5/13/2014 Note: Fund was renamed from the Visually Handicapped Fund to the Visually Impaired Fund.

1/5/2015 Note: Fund name was modified slightly to read: Individuals with Visual Impairment Fund.

Legal Authorization memo:

LETTER to Judy DeWaal, State of Utah, Office of Education, dated June 6,1985

Dear Judy:

In response to your question about whether the Visually Handicapped Trust Fund (Fund) was part of the State of Utah, we found a limited amount of information on the nature of the Fund. Apparently, the Fund is derived from contributions to provide services for the visually handicapped. The contributions range from dollars given in lieu of funeral flowers to a $30,000 contribution willed to Services for the Visually Handicapped. Expenditures from the Fund include some remodeling for the Murray B. Allen Center for the Blind, a State run Center.

From this information and the discussion Lynne Koga of our office had with you, the Fund looks as though it is a trust fund to be administered and accounted for by the State of Utah, under direction of the State Office of Education. We give the following reasons:

1. In their contributions, if the donees have requested the State to be the trustees, it doesn't appear that the State could legally transfer the trustee responsibility.
2. The expenditures are made at the final decision of the State Board of Education. This indicates that the contributions have been made to the State for State control.
3. If the Fund assets are transferred to another group, the State would still need a trust fund for any contributions made to the State for the benefit of the blind.

STATE OF UTAH
Division of Finance
Fund Information

Should the issue be pursued, we recommend that an Attorney General opinion be obtained to determine the legality of transferring the Visually Handicapped Trust Fund from the State to a private entity.

Sincerely,
(signature)
Lynn H. Vellinga, CPA
Assistant Controller

NOTE: To see original memo and documentation contact Financial Reporting at State Finance.

PTIF Account(s):

FINET	PTIF #	PTIF Name
2355	0523	DED-VISUALLY HANDICAPPED TRUST

Fund Balance History:

Fund	Year	Beg Balance	Revenues	Expenses	Transfers	End Balance
2355	1981	$143,129	$70,641	$58,256	$0	$155,514
2355	1982	$155,514	$13,271	$0	$0	$168,785
2355	1983	$168,785	$64,984	$0	$0	$233,769
2355	1984	$233,769	$33,182	$9,644	$0	$257,307
2355	1985	$0	$0	$0	$0	$0
2355	1986	$0	$0	$0	$0	$0
2355	1987	$294,102	$22,092	$9,501	$0	$306,693
2355	1988	$306,693	$24,838	$19,225	$0	$312,306
2355	1989	$312,306	$30,117	$16,700	$0	$325,723
2355	1990	$325,723	$31,627	$19,725	$0	$337,626
2355	1991	$337,626	$345,704	$67,074	$0	$616,256
2355	1992	$616,256	$89,619	$122,810	$0	$583,065
2355	1993	$583,065	$32,444	$21,340	$0	$594,169
2355	1994	$594,169	$22,195	$15,600	$0	$600,764
2355	1995	$600,764	$47,274	$20,000	$0	$628,038
2355	1996	$628,038	$37,721	$27,180	$0	$638,579
2355	1997	$638,579	$64,794	$33,480	$0	$669,893
2355	1998	$669,893	$42,675	$36,000	$0	$676,568
2355	1999	$676,568	$52,646	$36,000	$0	$693,214
2355	2000	$693,214	$47,179	$35,000	$0	$705,393
2355	2001	$705,393	$48,414	$40,500	$0	$713,307
2355	2002	$713,307	$24,520	$28,000	$0	$709,827
2355	2003	$709,827	$85,845	$15,156	$0	$780,517
2355	2004	$780,517	$36,388	$11,000	$0	$805,905
2355	2005	$805,905	$23,511	$11,000	$0	$818,416
2355	2006	$818,416	$42,568	$23,000	$0	$837,984
2355	2007	$837,984	$52,016	$36,000	$0	$854,000
2355	2008	$854,000	$96,788	$39,996	$0	$910,792
2355	2009	$910,792	$35,473	$18,858	$0	$927,407
2355	2010	$927,407	$10,817	$7,958	$0	$930,266
2355	2011	$930,266	$43,454	$5,737	$0	$967,982

STATE OF UTAH
Division of Finance
Fund Information

2355 2012	$967,982	$11,532	$0	$0	$979,514
2355 2013	$979,514	$17,281	$5,481	$0	$991,314
2355 2014	$991,314	$8,658	$500,000	$0	$499,972

Appendix B

STATE OF UTAH
DEPARTMENT OF ADMINISTRATIVE SERVICES

NORMAN H. BANGERTER, GOVERNOR

W. VAL OVESON, LT. GOVERNOR
EXECUTIVE DIRECTOR

June 6, 1985

Judy De Waal
State of Utah Office of Education

Dear Judy:

In response to your question about whether the Visually Handicapped Trust Fund (Fund) was part of the State of Utah, we found a limited amount of information on the nature of the Fund. Apparently, the Fund is derived from contributions to provide services for the visually handicapped. The contributions range from dollars given in lieu of funeral flowers to a $30,000 contribution willed to Services for the Visually Handicapped. Expenditures from the Fund include some remodeling for the Murray B. Allen Center for the Blind, a State run Center.

From this information and the discussion Lynne Koga of our office had with you, the Fund looks as though it is a trust fund to be administered and accounted for by the State of Utah, under the direction of the State Office of Education. We give the following reasons:

1. In their contributions, if the donees have requested the State to be the trustee, it doesn't appear that the State could legally transfer the trustee responsibility.

2. The expenditures are made at the final decision of the State Board of Education. This indicates that the contributions have been made to the State for State control.

3. If the Fund assets are transferred to another group, the State would still need a trust fund for any contributions made to the State for the benefit of the blind.

Should the issue be pursued, we recommend that an Attorney General opinion be obtained to determine the legality of transferring the Visually Handicapped Trust Fund from the State to a private entity.

Sincerely,

Lynn H. Vellinga
Lynn H. Vellinga, CPA
Assistant Controller

DIVISION OF FINANCE

2110 STATE OFFICE BUILDING • SALT LAKE CITY, UTAH 84114 • (801) 533-4600

2778H
p5

June 5, 1985

Judy de Waal

Dear Judy:

From information in our office, the Visually Handicapped Trust Fund (Fund) is derived from contributions to provide services for the visually handicapped. The contributions range from dollars given in lieu of funeral flowers to a $30,000 contribution willed to Services for the Visually Handicapped. Expenditures from the Fund include some remodeling for the Murray B. Allen Center for the Blind, a State run Center.

From this information and the discussion Lynne Koga of our office had with you, the Fund looks as though it is a trust fund to be administered and accounted for by the State of Utah, under the direction of the State Office of Education. We give the following reasons:

In their contributions, if the donees have requested the State to be the trustee, it doesn't appear that the State is able to transfer the trustee responsibility.

You've stated that expenditures are made at the final decision of the State Board of Education. This indicates that the contributions have been made to the State for State control.

If the Fund assets are transferred to another group, the State would still need a trust fund for any contributions made to the State for the benefit of the blind.

Should the issue be pursued, we recommend that an Attorney General opinion be obtained to determine the legality of transferring the Visually Handicapped Trust Fund to a private entity.

Sincerely,

L

Lynn H. Vellinga, CPA
Assistant Controller

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p5

Judy DeWaal x 5862

Adult Blind Trust Fund

Visually Handicapped Fund
Trust Fund 748708 1986 Fund #
914087 1984 Fund #

Educ. Endowment Trust, School for Blind

what kind of info do we have.
Want set up as Trust Outside the State.
What legal authority set up.

Wills - entrust the State as an agent-trustee

May need Atty. Gen. Opinion on pulling out the funds.

~~Leon 5144~~

Some of the money in past years has gone to Build ~~Keith Brown~~ in the Murray, B. Allen Center which is part of the State.

Received a contrib. willed to Services for the Handicapped - a State Division

Workshop for the Blind - matching funds - required fr. State? Private sources? Didn't know.

Wills, Bequests - do they designate the State in any way? yes -
Then Ut. would still need a Trust Fund

Committee at Blind Center - make recommend to Board of Ed. how to spend. Therefore the # are under State control, the State is the oversight agent and we don't think they can transfer that responsibility and the funds to another group.

RECEIVED
APR - 8 1980
... OF FINANCE
ACCOUNTING

STATE OF UTAH
DEPARTMENT OF FINANCE
TRUST AND AGENCY FUNDS

Ok
AC

Bd of Edu.
Responsible Department

State Office of Education
Fund Custodian

Adult Blind Trust Fund
~~ENDOWMENT TR. SCH BLIND~~
Fund Name

914087
Fund Accounting Number

Approximately 1950
Date Fund Established

Indefinite
Est. # of years Fund Required
(If indefinite, so indicate)

$30,000
Estimated Annual Receipts

$ Not determinable
Estimated Annual Disbursements

50
Estimated # of Annual
Transactions

AUTHORITY TO ESTABLISH THIS FUND (INDICATE STATE, FEDERAL OR LOCAL LAW REFERENCES):

DESCRIPTION OF FUND PURPOSE:

The fund is derived from contributions to provide services for the visually handicapped and varies in size from a few dollars contributed in lieu of flowers for a funeral to a $30,000 contribution willed to Services for the Visually Handicapped. Some donations state the purpose for which it may be used and some are given for whatever purpose is deemed advisable. Examples of expenditures made from this fund include some remodeling for the Murray B. Allen Center for the Blind and matching funds for federal grant on the Work-

...Cont'd next page

OTHER CONSIDERATIONS OR COMMENTS:

SIGNATURE

shop for the Blind. Some funds have been contributed to purchase a parking lot for the Blind which has not yet been done.

AVH:jp
4-2-80

DIVISION OF SERVICES FOR THE VISUALLY HANDICAPPED
Utah State Office of Education

M E M O R A N D U M

TO: Daryl McCarty

FROM: Warren Thompson Warren Thompson

DATE: Friday, May 17, 1985

SUBJECT: MEETING WITH PRESIDENT OF UCB

This morning I met with Mr. Fred Schmidt, President, Utah Council of the Blind, to discuss several issues the Council has. We met at his place of business at his request. I felt the meeting was very positive in all ways and agreed to follow up with you on some of the items.

Mr. Schmidt said he met last week with Governor Bangerter to seek his assistance in obtaining access to the Visually Handicapped Trust Fund to meet some of the needs of blind persons. The Council wonders if the fund should not be turned over to a community committee which would consider applications from blind individuals and groups for its use. The Fund would be deposited in a bank. He asked if I would obtain copies of early bequests and gifts to the Fund to enable the Council to determine if the monies were not really intended to be made available to the community without Office of Education involvement.

I told him I would search our files and request our Accounting Office to do likewise and we would provide him with the early documents he desired if it were permissible.

We talked of a possible alternative to the plan he proposed. This would involve the Fund remaining as it is but would assign the Governor's Advisory Council responsibility for considering applications from the community. This would require State Board action since the current board policy is that VHT Funds may be expended only to supplement or extend DSVH programs.

Mr. Schmidt wondered why the Advisory Committee to UIB had been discontinued. He feels such a committee can provide a very valuable service and recommends one be reestablished.

Mr. Schmidt said he had also made contacts in the State House to urge that the state purchase items available through UIB on a priority basis. If this were adopted as state policy it could have a very beneficial effect on the UIB program.

The Council has been active in obtaining audio signals at selected

Appendix C

COMMUNICATIONS COMMITTEE

Committee Chair Tami Pyfer reported that one-page sheets on the budget priorities will be prepared. She also announced that the new Board website is close to launching.

ACCOUNTABILITY AND FINANCE COMMITTEE

Committee Chair David Thomas reported on the following items from the Committee.

Visually Handicapped Trust Fund

Fifty years ago, the Visually Handicapped Trust Fund was developed under the Division of Services for the Blind and the Visually Impaired. It was determined that any donation received by the Division of $1,000 or more would be placed in this fund. Expenditures from the fund must be approved by the Board of Education. Due to the current value of the fund and the experienced loss of both federal and state allocations for service provisions to the blind in Utah, the Utah State Office of Rehabilitation (USOR) requested the Board to consider approval of the expenditure of $500,000 from the Visually Handicapped Trust Fund. The funding will be used to assist in provision of vocational rehabilitation services under the Division of Services for the Blind and Visually Impaired, and help the agency meet federal Maintenance of Effort requirements under the Vocational Rehabilitation Program.

The Committee approved the movement of $500,000 from the Visually Handicapped Trust Fund into USOR's budget, and moved that the Board approve the utilization of the funds.

Motion carried; Member Griffiths absent.

R277-116 *Utah State Board of Education Audit Procedures*

Amendments to R277-116 were reviewed to add the requirement for the Internal Auditor to meet semiannually with the Board Chair.

The Committee made further amendments on line 26, to replace "Finance Committee"

Agency Response

September 1, 2015

Mr. John M. Schaff, Auditor General
Office of the Legislative Auditor General
315 House Building
Salt Lake City, Utah 84114

Dear Mr. Schaff:

Thank you for the opportunity to provide this combined management response from Utah State Board of Education Leadership, Utah State Office of Education (USOE) and Utah State Office of Rehabilitation (USOR) to the *Performance Audit of USOR's Budget and Governance*. We respectfully acknowledge the tremendous time and effort involved, and are grateful for this formal account of the problems that are acknowledged and understood by the USOR, the USOE and the Utah State Board of Education (Board).

What is more, we appreciate your recognition of the aggressive steps we have already taken to address these issues, beginning with extensive changes in governing and executive leadership. We have developed plans to resolve the core causes of the problems, and most of the work is underway. As with any complex situation many years in the making, permanent fixes take time to implement. Nonetheless, we are confident that all of these issues will be resolved.

Therefore, we concur with all of the recommendations offered in the report that are directed to us. We have already begun addressing most of these, and we have a plan to address all of them as soon as possible.

Respectfully submitted,

David L. Crandall, Chair
Utah State Board of Education

Brad C. Smith, Superintendent
Utah State Office of Education

Darin Brush, Executive Director
Utah State Office of Rehabilitation

250 East 500 South P.O. Box 144200 Salt Lake City, UT 84114-4200 Voice: (801) 538-7517 Fax: (801) 538-7768

Response to
A Performance Audit of the
USOR's Budget and Governance

September 1, 2015

Table of Contents

Summary

After several years of unsustainable client caseload growth, USOR overspent its Vocation Rehabilitation program budget in 2014. After the recession of 2007 to 2009, Vocational Rehabilitation program caseload and spending grew to a point that, in 2012, USOR obligated higher percentages of its federal Vocational Rehabilitation grant awards in the year of appropriation (year one of two). Additionally, USOR received an increasing amount of additional federal Vocational Rehabilitation funds through the federal reallotment process (used to redistribute unexpended funds from other states) in FFY2010 to FFY2015. The increased expenditures meant that USOR carried over smaller portions of its federal Vocational Rehabilitation funds in FFY2012 and FFY2013. Federal grant awards are for two-year periods, so funding can, but is not required, to stretch or carry over into the second year. As such, the federal funds can be spent in the second year so long as the state match has been obligated by the end of the first federal fiscal year.

During the months of July, August, and September of 2013 (the first quarter of SFY2014, but the fourth quarter of FFY2013), to ensure compliance with federal matching requirements for the FFY2013 Vocational Rehabilitation grant, and to cover significant Vocational Rehabilitation expenditures, USOR had to expend the majority of its SFY2014 state Vocational Rehabilitation match funds on the FFY2013 award expenditures. This left insufficient non-federal funds to match the FFY2015 award until the SFY2015 funds became available in July 2014.

Ultimately, this unsustainable spending pattern led to USOR's need for the $6.3 million supplemental appropriation request during the 2015 General Session. The Board, USOE, and USOR wish to thank the Legislature again for this additional funding which has had the desired effect of allowing USOR to continue to deliver paid client services to Vocational Rehabilitation clients already in plan to be served, and to help remedy the noncompliance with the federal requirement that state funds must be spent proportionate to federal funds. We are also grateful for the ability to carry the unexpended portion of this supplemental appropriation into SFY2016, which allows us to make the budgetary and compliance corrections outlined in the report and this response.

In 2013 and 2014, when the Board, USOE, and USOR started to become aware of the budget problems with the Vocational Rehabilitation program, they began to take action. A visible result is illustrated in the systematic replacement of nearly all of the executive leadership at USOE and USOR in recent years. Concurrently, the Board has witnessed a two-thirds change in membership. The new Board and the leadership of USOE and USOR have developed plans and are executing the necessary changes which they are confident will prevent these problems in the future.

Background

The Utah State Office of Rehabilitation is often referred to as "Vocational Rehabilitation", which is USOR's largest, but not its only program. Vocational Rehabilitation provides services designed to help rehabilitate individuals with disabilities, prepare them for gainful employment (consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice), and increase their independence. Eligible individuals have a mental and/or physical impairment, and if USOR is unable to serve all eligible individuals, priority must be given to serving individuals with the most significant disabilities. The largest service USOR provides is professional-level vocational counseling and guidance by certified Vocational Rehabilitation counselors. Other services include those outlined in the report, which are often provided by third parties.

The Vocational Rehabilitation program is authorized by the Vocational Rehabilitation Act of 1973. Federal funding and oversight of the Vocational Rehabilitation program come through the Rehabilitation Services Administration of the Department of Education. This is probably a key reason that USOR was originally placed under the Board with USOE.

Many years ago, USOE accepted responsibility for some of USOR's centralized business functions including all of its accounting, and USOE charges USOR for these services through an indirect cost methodology. This includes budgeting, financial reporting, transaction processing, etc. Outsourcing the accounting function to USOE Internal Accounting clearly represented a major risk to USOR's grant management capability.

By state statue, USOR is governed "under the policy direction of the [Board, and] the direct and general supervision of the superintendent of public instruction" (UCA 53A-24-103(1)). The Board is an elected body of 15 members, subject to large change every two years. Recent events and elections mean that more than two-thirds of the Board began service since 1 January 2013. Additionally, the Superintendent of Public Instruction, Brad Smith was appointed in November 2014, and the Executive Director of USOR, Darin Brush assumed responsibilities in July 2015. USOR's Finance Director, its first ever, was appointed in March 2015. Attached to the report is a detailed timeline of events (Appendix A). It expands on the timeline of the report by listing additional, key events.

The report notes that much work is still to be done and it will take time for USOR to regain its financial footing. Given the structure of the federal requirements related to state funds matching and maintenance of effort (MOE), we estimate this time frame to be three to four years.

Response to Chapter One (Introduction)

Important to the report's claim that "Much of the information presented by USOR to its oversight bodies in Figure 1.1 was inaccurate or incomplete…" is the timing of hiring of USOR staff with more extensive financial competencies. The request for $1.7 million of state funds on 31 January 2014 was made based on financial information provided by USOE Internal Accounting under a governance structure that lacked sufficient oversight. We acknowledge the lack of consideration of the impact of that funding on the SFY2014 deficit. However, subsequent information presented to the Board of Examiners and Legislature was based on financial analysis completed by the USBE Internal Auditor focused upon USOR or recently hired USOR financial staff. These analyses were completed later in 2014, as part of on-going reviews, and included additional scrutiny by agency management, Board committees, and the Legislative Fiscal Analyst (LFA) particularly in the case of the $6.3 million supplemental appropriation. Therefore, we feel that the information presented was as accurate and complete as possible while acknowledging dependence on assumptions and estimations based on the available information at the time.

We similarly clarify that on 11 November 2014 at the Board of Examiner's meeting, though agency management may have indicated that "overspending would not happen again" or "underlying budget problems had been solved", the intent was to convey that there would not be another budget deficit as of 30 June 2015, not that all budget concerns were resolved. The letter to the Board of Examiners dated 23 October 2014 indicated this, stating the following:

> The increase in the number of clients and caseloads have and will continue to result in increased expenditures over the next few years, as vocational rehabilitation customers usually receive services over a two to four year period as they work through their individualized plans. The USOR management, under the direction of the State Board of Education and with the recent hiring of an internal auditor and new compliance and budget officer, is working on a comprehensive analysis of organizational policies and the budget, and is closely monitoring the level of vocational rehabilitation expenditures in the current year. Budgetary reviews have begun on current year expenditures at both the state and customer level. The USOR will also complete an analysis of rehabilitation expenditures, resources, and impacts to customers should an Order of Selection process be deemed necessary to meet budget requirements and levels....At the present time, the USOR is not requesting any supplemental appropriations in the current fiscal year, as federal reallotment funds were received and were sufficient to cover the deficit.

The above does not indicate that all budget problems were solved given the nature of the current client caseload. Rather, it shows that budget analysis was continuing and there was a possibility of needing to implement an Order of Selection as part of that process. As the budget analysis continued, and as acknowledged in the report, an Order of Selection was necessary to meet budget requirements and levels. Unknown at the time of the aforementioned letter, was the impact on existing clients, which led to the request for a $6.3 million appropriation. However, that was also identified based on the budgetary reviews the letter indicated were happening.

We believe it is important to comment on the statement in the report that suggests USOR reported in September 2014 to the Board "that the budget deficit and the overarching structural imbalance had both been resolved." If this refers to the Board's finance committee meeting discussion at that time, the minutes of that meeting state that "USOR has satisfied [the deficit] and reduced its structural imbalance", which is significantly different.

Response to Chapter Two (USOR Mismanaged Its Budget)

We agree that the budget problems at USOR were caused by a lack of adequate oversight, policies and procedures, and controls and offer a few clarifications. Of note, much of the report's analysis and conclusions about the Vocational Rehabilitation program are made from figures that include *all* USOR funding, possibly because it can be difficult to isolate only the Vocational Rehabilitation funding from other funding sources over the span of the years reviewed (Figure 2.1 in the report reflects this challenge). Vocational Rehabilitation is the largest section of USOR, but there are other programs that receive appropriations, expend funds, and serve individuals with disabilities. The report emphasizes the increase in expenditures at USOR; and while the other divisions saw some modest increases in expenditures, it was only the Vocational Rehabilitation program that had the budget deficit in 2014.

The report accurately indicates that the federal Vocational Rehabilitation grants may be spent over a two year period. The federal regulations also give a qualification to the two-year period of availability, which is that spending of the grant in the second year is only allowed if state match has been obligated by the end of the first federal fiscal year of the grant award. Although the federal grant can be spent over the two-year period, there is no prohibition against spending most of or the entire grant award in the first year.

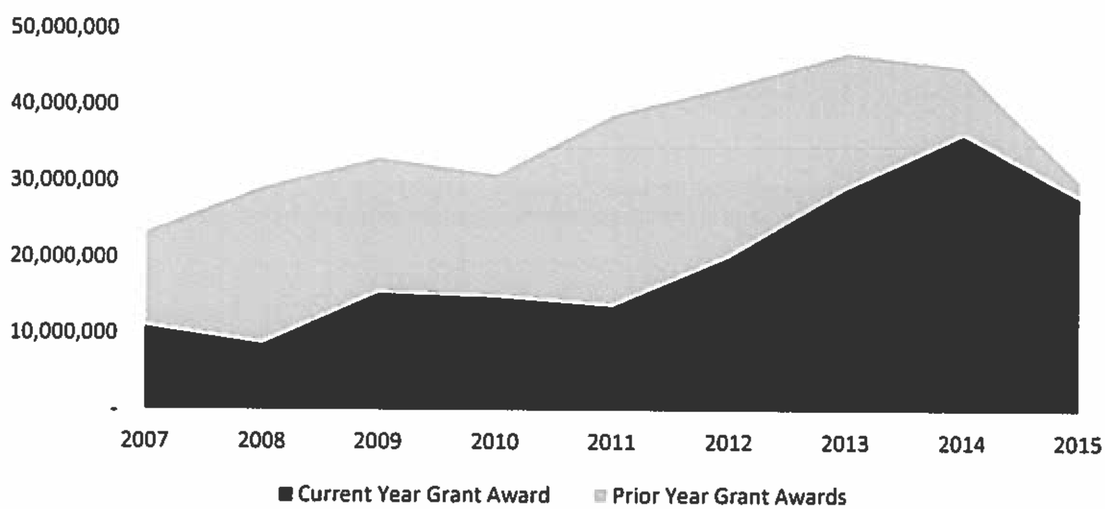
The report also indicates several times that USOR applied for and obtained one-time federal reallotment funds to satisfy increased expenditures. USOR first received reallotment funds in FFY2010, and has reapplied and received re-allotment funds each year since then. But, due to the timing of the reallotment funds, they are not actually available until the subsequent state fiscal year; therefore, the FFY2010 reallotment award was not available until August 2010, which was SFY2011. For the FFY2010 and FFY2011 awards, USOR had sufficient state match to receive reallotment funds with no new state funds and no disproportionate state funds from subsequent state fiscal years.

The report states "...USOE finance staff assigned to manage USOR's budget simply increased the working budget as USOR spent beyond available resources". In fact, the only year USOR spent beyond available resources and had a deficit was in SFY2014. Additionally, related to Figure 2.4, the Board recognized weaknesses in the monthly budget report they were receiving, and in April 2015 requested an internal audit of the report. The final audit report will be presented to the Board in its September 2015 meeting.

The analysis on Figure 2.6 of the report indicates that "to spend beyond the authorized amount in 2012, USOR had to use new state money to match one-time federal dollars...." In 2012, *no new state money* was requested or obtained to match one-time federal dollars for FFY2011 federal grant reallotment funds that were received; the existing appropriation was sufficient for the required match.

Indications are that the measures taken by the USOR to cure these budget problems are taking hold. Vocational Rehabilitation federal award program expenditures in the recently closed SFY2015 show a significant decline in expenditures from the highs in SFY2013 and SFY2014, revealing a correction of slowing current and prior year spending (see Figure 1.)

Figure 1. Vocational Rehabilitation Expenditures (Federal Award Portion), SFY2007 to SFY2015



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Recommendations

(Responses in this letter refer only to the recommendations made to the Board, USOE, and/or USOR.)

- *Recommendations 1 and 4.* The Board, USOE, and USOR have begun the policy and procedure development process related to budgeting. This task is being led by the new Associate Superintendent of Business and Operations that oversees USOE's Internal Accounting section. Associate Superintendent Scott Jones was appointed to this position in May 2015. While Interim Executive Director of USOR, Associate Superintendent Jones created a USOR Finance Director position, was instrumental in ensuring appropriate staffing for the Finance Director, and established budget workshops for all relevant personnel for the preparation of the SFY2016 budget.

  The Utah State Office of Rehabilitation is also subject to additional budget procedures for SFY2017 implemented by Associate Superintendent Jones, under the direction of the Board and Superintendent, for all entities governed by the Board, including new budget forms to track all requests for increased funding that may be included in the budget submission to GOMB and the LFA. Associate Superintendent Jones has created a budget development and reporting timetable to ensure that future budgets will be prepared in a timely manner and subject to appropriate review. Additionally, budget responsibility that has historically resided generally with USOE Internal Accounting will be required at the agency (USOR) level and section level (for USOE).

  As personnel and the organization realize more stability, additional policies and procedures will be developed, and trained on, as well as internal controls to ensure accurate reporting.

- *Recommendation 5.* The Board, USOE, and USOR are currently engaged in assessing the financial competencies and level of staffing needed to adequately manage the budget function. This is evident in the recent efforts by the Board and Superintendent to carry out the budget policy and procedure development explained in recommendations 1 and 4 above, by hiring a new Director of Internal Accounting, and by requesting supplemental and ongoing funding of $580,000 from the Legislature and Governor to fund three new managerial accounting positions and a grants compliance officer. These four new positions are critical to attain a clear status of funds to support appropriate budget forecasting, submissions to GOMB and the LFA, transition from the current outdated BASE budget and expenditure tracking system to FINET, corrective action on a large number of audit findings (including the findings in the report), and to respond to other areas of risk in the organizations.

  In particular for USOR, the new Executive Director who began in July 2015 has established an agency plan for USOR that includes financial and performance metrics. As part of this plan, Director Brush has identified the need for additional positions within USOR to ensure appropriate federal funds management, and these positions are slated to be filled as funding is identified and requested in SFY2016 and SFY2017.

- *Recommendation 6.* The response above to the recommendations also pertains to this recommendation. Particularly, as mentioned in Recommendation 5 above, to meet the goals established in the new USOR agency plan related to financial and performance metrics, USOR has identified the need for, and begun work on, a predictive case modeling system. This system is critical because it will allow the agency to forecast client caseloads, evaluate demand for and cost of services, and analyze the current waiting lists established by the implementation of the Order of Selection to determine when individuals may receive services. It will test these assumptions by constantly comparing them against the actual monthly obligations and expenditures. Moreover, the USOR Finance Director is also in process of creating tools to ensure appropriate financial analysis, including revenue and expenditure trends and payroll forecasting tools.

Response to Chapter Three (Weak Oversight and Communication Prolonged and Worsened Financial Problems)

The leadership of the State Board of Education concurs about the historic lack of governance and oversight for USOR and about the importance of its recent reforms. The key activities of the Board to establish better oversight for USOR have been:

1. Large governance reform beyond the oversight for USOR beginning in 2013
2. The 2014 search for a new state superintendent
3. Escalating responses specifically about USOR beginning in August 2013.

We respectfully submit that the Board has been responding significantly since 2013 to the larger problems that caused the failure at USOR. The Board has been doing this by recognizing that the problems at USOR are not only the consequence of years of neglect, but more significantly, they are symptoms of a board that, until recently, had largely abdicated its policy-making to staff, and permitted an office to function without critical competencies and policy and procedures at *both* USOR and USOE. These larger problems are being addressed by significant governance reform measures.

1. Governance reform: The Board has been directing a large governance reform since mid-2013. The orientation of this governance reform is three-fold:

- Reclaim policy-making power that formerly had been delegated to staff
- Create data-driven policy, especially in a risk-sensitive manner
- Discharge with fidelity the significant legal responsibilities of a state-level pass-through entity for federal grants

Since 2013, the Board has undertaken many significant actions to assert its primacy and to accept the immediate rather than a secondary responsibility for policy and financial matters. This broader context of Board actions is and will be critical to the ultimate multi-year governance remediation of USOR and public education. Figure 2 outlines some of the more significant reforms by which the Board has been transforming itself into a more robust governing board.

Figure 2. State Board of Education Governance Reform 2013-2015

- Board, as a whole, began annually evaluating the State Superintendent and its other employees (starting in July 2013)
- Board Bylaws were amended significantly, returning power to the Board (2013-2015)
- Established that its internal auditors report directly to the Board and not the State Superintendent (summer 2013-2015)
- Board Finance Committee began budget reviews (April 2014)
- The Board approved annual budgets for USOE, USOR, and USDB for the first time in recent memory (June 2014)
- Appointment of a new State Superintendent (October 2014)
- Established a more board-directed policy-making process (October 2014-August 2015)
- Board obtained its own legal counsel from the AG's office (April 2015)
- Called a task force to review advisory groups and board appointment processes (Spring 2015)
- Redirected the Associate Superintendent of Business and Operations to report directly to the Board (August 2015)

These efforts of the Board to execute a systemic reform are the critical foundation for solving the problems at USOR. This is because reforming federal grants management is not possible without the Board continuing to make reforms, not just at USOR or USOE, but also for itself (see Figure 3). This is true also for non-USOR federal grants for which the Board is responsible.

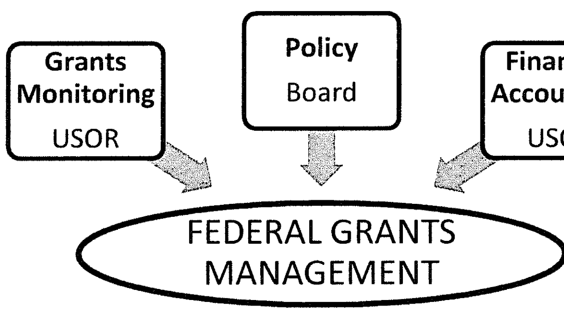

Figure 3.

2. State Superintendent Search: In the midst of this multi-year reform, the executive search for a new State Superintendent was a central means of governance improvement for all matters under the hand of the Board. As such, the superintendent search of 2014 was significantly different than previous searches.

The Board emphasized the need for executive leadership skills over educational experience when it advertised that the "candidate need not be licensed as a public educator." The invitation for applicants for the position of the Superintendent explicitly sought for an executive officer who could *"[direct] the work of the Utah State Office of Education and assists the State Board in oversight of the Utah State Office of Rehabilitation and the Utah Schools for the Deaf and Blind"* (emphasis original) and who could "implement a *strategic plan* that includes *excellence in matters of: finance, human resources,* information technology, law, education, and communications" (emphasis original). In contrast, former searches had focused heavily on former experience as an education administrator at a school district or state department of education, rather than on critical executive competencies.

The Board leadership has confidence that the new Superintendent and new Executive Director of USOR will execute a full resolution to USOR problems, but also that this reform will be well-supported by many key executive staff persons who have been or soon will be appointed (see Figure 4).

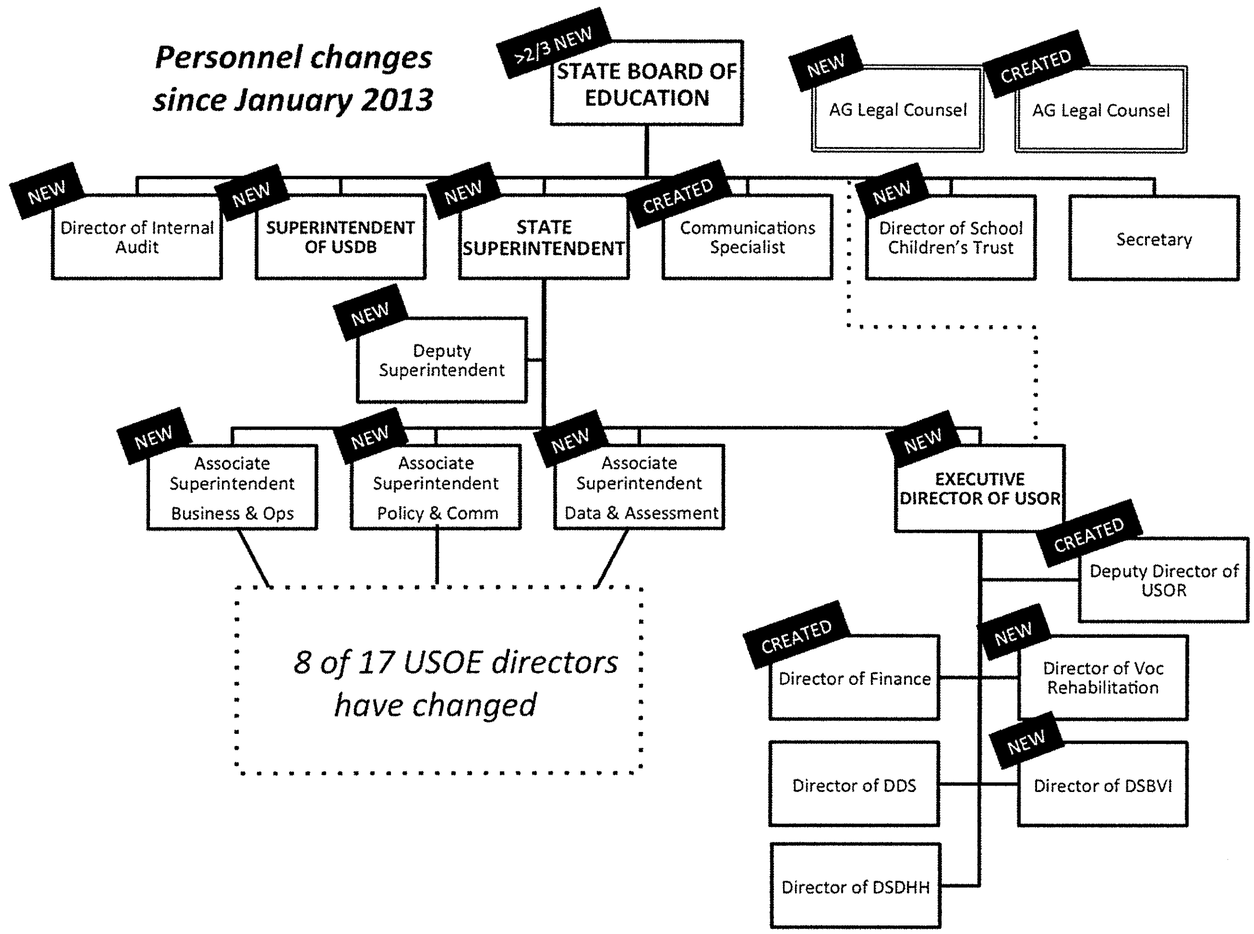

Figure 4.

3. Escalating responses to USOR: We concur that, until August of 2013, the Board gave little direction regarding USOR to the State Superintendent or the Executive Director of USOR. We also submit that from August 2013 through January 2015, there has been a crescendo of understanding and response by the Board, which helped illuminate the scope of the problem in time for the 2015 General Session (see Figure 5).

The timeline in Appendix A of the report presents the series of escalating activities by the Board and its executive team starting in August of 2013 in response to the unfolding of an increasingly serious financial situation. The initial changes starting in August 2013 were precipitated by two significant reports to the Board regarding USOR. The first was a presentation by USOR highlighting almost $2 million of indirect overhead paid by USOR to USOE. The second was an audit report of the Office of the

State Auditor. Additionally our internal audit staff concurrently expressed concern over the lack of internal audit resources preventing it from looking at risks inside of USOR and USDB. These two reports and the expressed concern by our audit staff created an understanding for some Board members of the responsibility for USOR by the Board and the need to better assess the risks faced by USOR. This resulted in the hiring of an additional internal auditor to focus on USOR. The role of internal audit in unveiling problems at USOR was significant.

Members of the audit committee and the finance committee of the Board became very concerned about USOR earlier than others. This is not only because they were more expert in financial matters, but also because they naturally received much more detailed information during their committee work. They were sooner able to grasp the connection between the worsening situation at USOR, the clear implication of problems inside of USOE Internal Accounting, and the absence of consistent federal grant management throughout USOE.

As noted in the report, the Executive Director of USOR provided multiple reassurances to the Board throughout 2013 and 2014 that the financial problems had been addressed. These reassurances were often coupled with the repeated representation that all governance studies indicated that USOR was best placed with education.

With such financial assurances being intermingled with references to USOR placement, some members of the Board were particularly unable to acknowledge the worsening of the fiscal state of USOR independent of a preconceived belief that there was no need for a governance study of USOR. Even in the face of a report in November 2014 to the Board from its finance committee and USOR executive staff that an order of selection was an inevitable need and still would not be enough to meet committed plans for paid client services, several Board members told the incoming Superintendent that there were no problems at USOR.

Despite this unfortunate history, the financial trouble for the Vocational Rehabilitation program would not have been avoided by an elimination of any delays in 2014. The structural problems already had been cemented by decisions made largely without Board input in prior years. USOR would still have needed the SFY2015 supplemental appropriation, significant reduction in personnel and operations, and the increase of financial controls. More immediate action by the Board in 2014 could only have reduced the amount of the SFY2015 supplemental funding.

Recommendations

- *Recommendation 1.* We concur about the historic lack of coordinated communication about USOR between the Board, the Superintendent, and the Executive Director of USOR. The Board and its executive team are working to address these problems. The Board has been and currently still is in process of adding communication processes for itself, the Superintendent, and USOR. Since April 2014, the Board's finance committee has discussed at length calendars for budgetary reports and reporting elements for USOE, USDB, and USOR. The entire Board has reviewed and updated these calendars and budget formats. Recently the leadership of the Board has directed that the budget reports be presented quarterly as an item separate from the consent calendar, and the State Superintendency has begun twice monthly meetings with the USOR Executive Director and the Superintendent of USDB. As part of complete budgetary reviews of USOE, USOR, and USDB that we are conducting, we will publish a new organizational chart.

- *Recommendations 2, 4, and 5.* The leadership of the Board concurs about the historic lack of role clarity between the Board, the Superintendent, and the Executive Director of USOR. The Board also is working to address these problems as part of the governance reforms described above. The Board also invites assistance from the Legislature in clarifying roles.

  The Board has been adding processes to establish its role in the work of USOR. Since 2013, the Board's audit committee has been including USOR as a regular agenda item on its monthly meeting schedule. The following year, the Board's finance committee has been reviewing USOR budgets. That same year the Board began including an executive evaluation of the Executive Director of USOR. Since January 2015, the State Board has explicitly approved not only the appointments of the Executive Director of USOR, but also of all directors inside of USOR, most of which approvals are required by state statute (see especially UCA 53A-24-104, 53A-24-203, 53A-24-303, 53A-24-403, and 53A-24-503).

  To aid in the process of role clarification, the Board respectfully requests greater precision of statutory language for the role of the Board in the appointment of the Executive Director of USOR. Currently the Board only approves the appointment made by the Superintendent.

  The State Board of Education and the State Superintendent of Public Instruction are both constitutionally named bodies. In Utah statute there are several occasions where the Legislature has bypassed the State Board to explicitly direct the Superintendent to do something. (e.g. appoint the members of Utah Professional Practices Advisory Commission, appoint the Executive Director of USOR, a series of duties in 53A-1-301, etc.). Historically the Board generally has presumed an explicitly understood and statutorily directed delegation of power when such language has been used. Case law also points to a connected power to terminate an employee with the power of appointment (Sheriff of Salt Lake County v. Board of Commissioners, 71 Utah 593, 268 P. 783, 784 (Utah 1928); Ward v. Richfield City, 776 P.2d 93, 96 (Utah App. 1989)).

  If the Legislature intends for the Board to only ratify appointments then no change is needed. However, if the Legislature, even for the short-term, expects the Board to have an unambiguous power of termination for the executive director of USOR, it would be clearer if the actual appointment power rather than solely the approval power were given to the Board. This matter might be considered in a statutory review of all instances when the Legislature empowers the Superintendent rather than the Board.

- *Recommendation 3.* We concur that a comprehensive plan with performance and financial metrics, controls, and a monitoring schedule are needed. See Appendix B for the draft plan for USOR that soon will be presented to the Board for approval.

Response to Chapter Four (USOR's Mission Would Be Better Served Elsewhere in State Government)

The Utah State Office of Rehabilitation, the Utah State Office of Education, and the Utah State Board of Education recognize the significant concerns about the placement of USOR within USOE, and agree that USOR had not been well served by its location within USOE. We realize that the possibility of moving USOR is a complex and difficult issue. We appreciate that there are many strong opinions and feelings on the subject, and that there will be implications for individuals in Utah with disabilities for years to come.

There is perhaps no ideal match for USOR. As the report shows in its sample, there are a variety of ways other states handle the alignment of rehabilitation services. We recognize the concerns expressed by both the Utah Department of Workforce Services and the Utah Department of Human Services indicating that neither agency is a perfect match and suggesting that a budget evaluation will be needed to determine any administrative cost impact. The concept raised in the report of an independent commission with direct gubernatorial and legislative lines-of-sight is intriguing because it mitigates the issues of agency mismatch, though not without concerns, too.

We are confident that the Legislature will take the time to gather the necessary information to make the best decision for the individuals in Utah with disabilities who need individualized and accessible services offered by USOR. We pledge our support and assistance for this process, and to providing any information that may be useful. We encourage the Legislature to gather stakeholder input. Finally, we fully appreciate the Legislature and its public policy setting role, and will respectfully and completely comply with the direction it establishes.

We are committed to serving the mission of USOR. We are confident in our ability to solve recent problems, and plan to move forward as a stronger agency that will continue providing quality, effective, and needed services to individuals with disabilities, regardless of wherever USOR is located.

Response to Chapter Five (Use of Visually Impaired Trust Fund for VR Was Imprudent)

The Utah State Office of Rehabilitation has always maintained that using funds from the Visually Impaired Trust Fund (Fund) in order to purchase Vocational Rehabilitation services and equipment for clients who are blind and visually impaired was within the guidelines for use of the Fund. This interpretation was supported by a review by the USBE internal auditors. USOR is pleased that the report, and specifically the opinion of the Office of Legislative Research and General Council contained therein, agrees that using the funds for Vocational Rehabilitation expenses was a legal use of the Fund.

Recommendations:

- *Recommendation 2.* USOR agrees with the recommendation that clarification is needed to define what type of fund the VITF represents, and that Division of Services for the Blind and Visually Impaired (DSBVI) should develop and finalize new policies and procedures for use and oversight of the Fund. As indicated in the report, some of this work has begun as USOR has already drafted new policies documenting specifically the procedures for management, accounting, and processing expenditures for each of the funds.

- *Recommendation 3.* USOR also agrees that the DSBVI and USOR, under the direction of the Utah State Board of Education, should further define the ultimate purpose of the Fund. USOR looks forward to enlisting input from stakeholders and further examining the history and past use of the Fund to help define and document the ultimate purpose and uses for the Fund going forward.

Appendix A

USOR TIMELINE

Time	Activity
Aug 22, 2013	USOR reports to USBE with a strong emphasis of the benefit to USOE administrative budget of approximately $1.8 million in indirect costs Several USBE members began asking why there wasn't internal auditing staff for USOR paid out of those indirect costs
Sept 11, 2013	Executive Director Don Uchida of USOR retires Russ Thelin appointed as the new Executive Director
Sept 12, 2013	Office of the State Auditor report on USOR with findings of materials internal control weakness, significant deficiency of internal control, and reportable noncompliance or illegal acts
Oct/Nov 2013	State Superintendent indicates to the USBE Audit Committee that he will identify funding to hire a new internal auditor to focus on USOR
Jan 2014	A new auditor requested by and funded by USOR, Debbie Davis, begins work on USOR
Feb 7, 2014	USBE Audit Committee hears first high level assessment of risks regarding governance inadequacies; a risk assessment is ordered for USOR; t***hereafter, USOR is a significant item in the USBE Audit Committee and/or USBE Finance Committee***
March 2014	USOR hires a Program Planning & Evaluation Specialist; this position incorporated fiscal and budget duties
Apr 2014	USBE Finance Committee begins budgeting as core focus
Apr 2014	USBE internal audit work commences on the indirect costs
May 5, 2014	Internal Audit, Internal Accounting, Associate Superintendent of Business Operations, and USOR meet to discuss indirect costs in conjunction with the audit on indirect costs
Jun 6, 2014	With a 8-7 vote, USBE initiates a legislative priority for a joint task force study concerning the governance of USOR
Jun 20, 2014	USBE Audit Committee receives the USOR Risk Assessment; A high level summary of the risk assessment is provided to the State Board
July 2014	Program Planning & Evaluation Specialist resigns
Aug 7, 2014	USBE internal audit 15-01 – *USOE and USOR Accrual Process* with several findings regarding lack of policies, procedures and internal controls on data, and accruals was presented to the Audit Committee. The USOR accrual added $1.2 million to the SFY2014 budget deficit. Internal Audit, Internal Accounting, and an Associate Superintendent met with State Finance on the accruals and year-end concerns on 8/14/14.
Aug 21, 2014	USBE appoints interim State Superintendent Joel Coleman and interim Deputy State Superintendent Syd Dickson
Sept 11, 2014	Jennifer Roth is hired as the USOR Program Planning & Evaluation Specialist, which increasingly incorporated finance and budget related items
Oct 10, 2014	USBE appoints State Superintendent Brad Smith
Oct 15, 2014	Interim Health and Human Services Committee Testimony: • USOR Executive Director spoke strongly in favor of the status quo for USOR oversight • USBE member Jennifer Johnson, speaking for herself, raised concerns about USBE

	providing effective oversight to USOR • No action was taken by the legislative committee
Oct 20, 2014	USBE member Jennifer Johnson had a conversation with the Executive Director where she repeatedly asked him why he wasn't asking for more funds for USOR and if there was sufficient funding; The USOR Executive Director represented that there was sufficient funding
Nov 7, 2014	Brad Smith is sworn in as the State Superintendent USBE Finance committee received a presentation from USOR on the inevitability of Order of Selection waiting list, the likelihood of needed funds for VR, and a USOR SWOT analysis; USBE Finance Committee reported this to the USBE With a 7-8 vote, USBE removes from its legislative priorities the request for a joint task force study concerning the governance of USOR
Nov 11, 2014	Speaking for herself in an email response to Sachin Dev Pavithran, Board member Jennifer Johnson raised the governance questions that follow with • State Superintendent Brad Smith • USOR Executive Director Russ Thelin • State Board of Education Chair Dave Crandall • Senate Health and Human Services Committee Chair Evan Vickers • House Health and Human Services Committee Chair Paul Ray • Representative Steve Handy • DWS Executive Director Jon Pierpont • GOMB Executive Director Kristen Cox • Governor's Education Advisor Tami Pyfer • Disability Services Advocate Sachin Dev Pavithran
Nov 24, 2014	USOR promises the Board of Examiners that they will not overspend
Jan 5, 2015 & Jan 7, 2015	Public hearings regarding to the Order of Selection waiting list for USOR
Jan 8, 2015	USBE approves USOR's plan for Order of Selection; USBE makes request for $6.7 million supplemental its #1 priority for funding for USOR
Jan 15, 2015	USBE Internal Audit 15-06 *Review of USOE/USOR Year-End Financial Close Process* with several findings regarding lack of policies, procedures and internal controls on the year-end financial close process was released. Internal Audit, Internal Accounting, and an Associate Superintendent met with State Finance on year-end concerns on 8/14/14 and a memo regarding an adjustment to the CAFR was sent 10/6/14.
Feb 2015	USBE started having committee meetings on Thursday evenings prior to the Friday board meetings to give more time for public comment and attendance. Also, gives additional time for USBE to discuss matters needing oversight.
Feb 6, 2015	USBE approves USOR's modified plan for Order of Selection (OOS)
Feb 19, 2015	USBE Internal audit (14-05) with several findings and observations regarding the indirect cost plan is discussed The Superintendency also presents to the Audit Committee their response and recommendations for revising the indirect cost plan
Feb 25, 2015	Federal Department of Education Rehabilitation Services Administration (RSA) approves USOR Order of Selection plan (Note: RSA initially denied the OOS proposal and USOR had to modify the OOS proposal before receiving approval)

	RSA had technical difficulties approving the plan and publishing it on its website so the OOS was actually implemented by USOR on Feb 27, 2015
Mar 6, 2015	Scott Jones is appointed interim Executive Director of USOR Joel Coleman is appointed interim Division Director of DSVBI and DSDHH
Mar 18, 2015	Governor signs supplemental appropriations bill authorizing the $6.3 supplemental appropriation to USOR for paid client services
Mar 25, 2015	Jennifer Roth is promoted to USOR Finance Director, a new position
May 8, 2015	USBE amends its rule R280-200 to require State Board policy-making for federal funding requests, including for additional one-time re-allotment funds and regarding use of state match/maintenance of funds that will be applied to federal grant awards.
May 8, 2015	USBE directs that $1,084 be reimbursed to the DSBVI Trust Fund for unallowable expenditures
Jun 19,2015	USBE approves the appointments of Darin Brush, USOR Executive Director and Steve Winn, USOR DSVBI Director
Jul 1, 2015	Darin Brush starts as USOR Executive Director
Aug 7, 2015	USOR Executive Director presents initial comprehensive plan for USOR

Governance questions regarding USOR raised in November 2014:

• *How is and how should policy be formed for USOR?*

• *Should the State Rehabilitation Council composition requirements include advocacy group representation for mental-illness disabilities in addition to the current general requirements for members who have a disability? Or, would inclusion of mental illness advocacy groups (who usually also are service organizations) increase regulatory capture?*

• *What quality of legal counsel is being provided to USOR?*

• *Are the statewide coordinating councils to which USOR belongs structured well and operating well? Who determines this? How well is the collaboration going with county services?*

• *Should a mechanism be developed so that the State Board gets reports about the quality of collaboration via some process independent from USOR? If so, how?*

• *Should the State Board largely rely upon recommendations from USOR for its appointments to the State Rehabilitation Council or should complete independence be required?*

• *What data does the State Board (or some other entity) need for policy oversight of USOR?*

• *Are the current and historic indirect cost pool charges to USOR by USOE appropriate, and should this regularly be evaluated by an independent state-level party?*

• *Should USOR be subsidizing the entire state superintendency when historically very scant amounts of any of their work has been devoted to USOR?*

• *Should the State Superintendent appoint the Executive Director of USOR? Does this contribute to an incentive for the Executive Director to not complain of issues to the State Board with services provided by USOE to USOR or the amount of indirect cost charges from USOR to USOE?*

• *Who should be in charge of grant management at USOR since USOE provides accounting services but USOR runs the programs?*

- *Should the state portion of USOR's funding come from the Education Fund or should it be funded from the General Fund? Or a combination?*

- *Should USOR make its legislative budget requests to the health and human services subcommittee or the education appropriations subcommittee?*

Appendix B

USOR Agency Plan

Updated 28 July 2015

Goal: USOR manages its resources to effectively and efficiently serve the greatest number of eligible clients while remaining within its allocated budgets

Description: USOR will develop and utilize ***a comprehensive budget and accounting management system*** for informed and accurate budget projections, timely and thorough obligations and expenditures tracking, and long-term planning to help predict future funding needs

Activities:
- Build a financial management team with sufficient capacity to meet the needs
- Develop the FY2017 agency budget
- Create, test, and implement a payroll tool that accurately informs the budget and accounting system
- Develop a model to explain and track state maintenance of effort, federal funding, and reallocation funding for rehabilitation services
- Develop a model to accurately project client services in the short- and long-term (by estimating average costs to provide services to each category of clients), and continuously compare actual expenditures to projections
- Create a mechanism for regularly evaluating the ability to provide the full range of vocational rehabilitation services to all eligible individuals
- Implement an Order of Selection resource tracking mechanism
- Provide fiscal monitoring and technical assistance to divisions and contracted partners
- Review statewide building/space usage for maximum efficiency
- Manage restricted assets (trust funds) for appropriate uses
- Establish working agreement with the Utah State Office of Education for accounting services

Goal: USOR uses relevant and accurate performance management data to achieve and sustain operational excellence

Description: USOR will build ***an integrated management information system (MIS)*** that tracks performance across all activities that are relevant to agency goals and federal/state requirements, and which is accessible to USOR management, staff, and clients, as well as stakeholders, partners, and the public.

Activities:
- Build a management information and reporting team with sufficient capacity to meet the needs
- Survey and capture the required performance indicators across all USOR divisions and programs
- Identify additional performance indicators necessary for managing the agency
- Build an MIS reporting template that includes all relevant performance indicators
- Automate MIS reporting
- Publish performance results

Goal: USOR complies with applicable laws, regulations and rules, and follows essential plans, policies, and procedures in order to properly carry out its mission and mandates

Description: USOR will create ***a centralized compliance and quality assurance structure*** to ensure regulatory compliance, organizational consistency, and continuous improvement

Activities:

- Build a compliance team with sufficient capacity to meet the needs
- Create a robust set of necessary agency policies and procedures
- Comply with the guidance contained in the Omni Circular
- Implement the Workforce Innovation and Opportunities Act
- Provide monitoring and technical assistance to divisions and contracted partners

Goal: USOR has an organizational structure and the key operational activities that support it as a high performance agency

Description: USOR will ***configure the agency to consistently implement managerial direction, align service delivery systems, and enhance communication***, while allowing for adaptation to changing conditions and needs

Activities:

- Analyze organizational strengths, weaknesses, and risks
- Review current organizational structure for gaps and efficiencies
- Organize management and administrative positions to meet agency needs, adding new positions as necessary
- Create a centralized, long-term planning function
- Organize management teams (e.g. executive, senior, and/or expanded) to reflect the agency priorities
- Expand the leadership development strategy throughout the agency
- Look for efficiencies throughout the agency
- Focus on clear and consistent communication throughout the agency and with stakeholders
- Clarify expectations for communication with the State Board of Education